

COPY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
KITCHEN WINNERS NY INC.,

PLAINTIFF,

-against- CIVIL Action No.:  
22-cv-05276-PAE

ROCK FINTEK LLC,

DEFENDANT.

-----X  
ROCK FINTEK LLC,

COUNTERCLAIM and THIRD-PARTY PLAINTIFF,

-against-

KITCHEN WINNERS NY INC.,

COUNTERCLAIM DEFENDANT,

and

ADORAMA INC., HERSHEY WEINER, JOSEPH  
MENDLOWITZ, JNS CAPITAL HOLDINGS LLC and  
JOEL STERN,

THIRD-PARTY DEFENDANTS.

-----X

DATE: August 29, 2023

TIME: 10:17 a.m.

VIDEOCONFERENCE DEPOSITION of  
ROCK FINTEK LLC, by BRAD GILLING

RAPID REPORTING LLC  
254 South Main Street, Suite 216  
New City, New York 10956  
(718) 310-0704

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DATE: August 29, 2023

TIME: 10:17 a.m.

VIDEOCONFERENCE DEPOSITION of ROCK  
FINTEK LLC, by BRAD GILLING, pursuant to  
Notice, held remotely via Zoom, before  
Phyllis F. Russek, a Shorthand Reporter and  
Notary Public of the State of New York.

## A P P E A R A N C E S:

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ALSO PRESENT: YISROEL STEINBERG, ESQ.  
LAUREN RIDDLE, ESQ.

## FEDERAL STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by  
and between the counsel for the respective  
parties herein that the sealing, filing,  
and certification of the within deposition  
be waived; that the original of the  
deposition may be signed and sworn to by  
the witness before anyone authorized to  
administer an oath, with the same effect as  
if signed before a Judge of the Court; that  
an unsigned copy of the deposition may be  
used with the same force and effect as if  
signed by the witness, 30 days after  
service of the original and 1 copy of same  
upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED  
that all objections, except as to form, are  
reserved to the time of trial.

\* \* \* \*

1 GILLING

2 THE REPORTER: Mr. Frisch, are  
3 you ordering?

4 MR. FRISCH: Yes.

5 THE REPORTER: Mr. Rakhunov?

6 MR. RAKHUNOV: Yes.

7 (Whereupon, an off-the-record  
8 discussion was held.)

9 B R A D G I L L I N G, called as a  
10 witness, having been first duly sworn by a  
11 Notary Public of the State of New York, was  
12 examined and testified as follows:

13 EXAMINATION BY

14 MR. SPERBER:

15 Q Please state your name for the  
16 record.

17 A Brad Gilling.

18 Q What is your current address?

19 MR. RAKHUNOV: I don't know why  
20 you need Mr. Gilling's home address  
21 on the record. We'd be willing to  
22 accept any service on his behalf.  
23 So if acceptable to all counsel, we  
24 will just put his office address  
25 down.

1 GILLING

2 MR. SPERBER: That's fine by  
3 me.

4 MR. FRISCH: Fine with me.

5 A 22955 21 Mile Road, Macomb,  
6 Michigan 48042.

7 Q Good morning, Mr. Gilling. My  
8 name is Alexander Sperber. I'm the  
9 attorney in this matter for plaintiff,  
10 Kitchen Winners New York, Inc., Adorama,  
11 Inc., and Joseph Mendlowitz.

12 Have you ever testified under  
13 oath before?

14 A Yes.

15 Q In what context?

16 A In a lawsuit.

17 Q Was that lawsuit related to a  
18 business matter?

19 A Yes.

20 Q Can you describe it?  
21 Withdrawn.

22 Can you explain the nature of  
23 that lawsuit?

24 A It's a Rock Fintek plaintiff's  
25 case. Rock Fintek against two brokers.

1 GILLING

2 Q Was Rock Fintek the plaintiff  
3 in that action?

4 A Yes.

5 Q Did that lawsuit have to do  
6 with medical gloves?

7 A No.

8 Q Did it have anything to do with  
9 personal protective equipment?

10 A Yes.

11 Q What kind of equipment?

12 A Masks.

13 Q And what was Rock Fintek  
14 alleging?

15 MR. RAKHUNOV: Objection.

16 A I'm not really sure.

17 Q What was the name of that  
18 lawsuit?

19 A I'm -- I don't know.

20 Q Who was Rock Fintek suing?

21 A First Holdings, Michael Boback,  
22 and the other gentleman escapes me.

23 Q When you said you testified  
24 under oath, was that in a deposition or a  
25 trial.

1 GILLING

2 A Deposition.

3 Q Besides for that lawsuit, have  
4 you ever testified under oath under any  
5 other circumstances?

6 A No, not that I recollect.

7 Q Well, just to refresh your  
8 recollection -- I'll go through. I'm sure  
9 you were told this at your last deposition.  
10 We have a court reporter here who is taking  
11 down everything I say, everything you say,  
12 everything that the other attorneys here  
13 say. So it's important in order to get a  
14 clean transcript that we don't speak over  
15 one another.

16 THE REPORTER: Excuse me. What  
17 is that beeping?

18 (Whereupon, an off-the-record  
19 discussion was held.)

20 Q Let me just repeat the  
21 question. We have a court reporter here  
22 who is taking down everything that I say,  
23 that you say, and the other attorneys are  
24 saying. It's important to get a clean  
25 record and so I'd ask that when possible



1 GILLING

2 you don't speak over me and I won't speak  
3 over you. Is that all right?

4 A Yes.

5 Q Do you understand that you are  
6 under the same oath today that you would be  
7 as if you were in a courtroom?

8 A Yes.

9 Q And you understand that even  
10 though you are testifying at a deposition  
11 today, the testimony you are giving under  
12 oath here is subject to the same penalty of  
13 perjury as if you were testifying in a  
14 court of law?

15 A Yes.

16 Q If you don't understand one of  
17 my questions, please let me know. Unless  
18 you tell me otherwise, I'm going to assume  
19 you understood the question. Is that all  
20 right?

21 A Yes.

22 Q Is there anything that would  
23 prevent you from thinking clearly or  
24 testifying truthfully today?

25 A No.

1 GILLING

2 Q If you need time to take a  
3 break during the deposition, just let me  
4 know. As long as there is no question  
5 pending, I'd be happy to take a break at  
6 any time.

7 A Okay.

8 Q In preparing for today's  
9 deposition, did you review any documents?

10 A No.

11 Q What did you do to prepare for  
12 today's deposition?

13 A Had a discussion with Rock  
14 Fintek's attorney.

15 Q Anything else?

16 A Well, a discussion with Rock  
17 Fintek's attorneys. Lauren was present  
18 too.

19 Q Aside from Lauren and  
20 Mr. Rakhunov, was anyone else present  
21 during that conversation?

22 A No.

23 Q Mr. Gilling, what is your  
24 highest level of education?

25 A Four-year college degree.

1 GILLING

2 Q Where is that from?

3 A Alma College.

4 Q What was your degree in?

5 A Advertising.

6 Q And when did you graduate?

7 A '92. 1992.

8 Q And after graduating from  
9 college, what was the first job that you  
10 took?

11 A Working for a beer distributor.

12 Q What were you doing there?

13 A Working on the sales team.

14 Q And how long were you at that  
15 company?

16 A I don't recall. Not long.

17 Q And after leaving that company,  
18 what was your next form of employment?

19 A I'm not sure where I went from  
20 there. Eventually went to a company called  
21 IDS.

22 Q Is that I, D, like David, S?

23 A Correct.

24 Q What kind of company is IDS, or  
25 was IDS?

1 GILLING

2 A Financial planning company.

3 Q And what were you doing there?

4 A Financial planner.

5 Q Approximately how long were you  
6 at IDS?

7 A I'm not sure. One to -- one to  
8 three years. One to two years.

9 Q And after leaving IDS, where  
10 was your next employment?

11 A I went out on my own, on my  
12 own, as a broker for Mariner Financial was  
13 the name of the broker dealer.

14 Q Approximately what year was  
15 that?

16 A '94 to '96. Somewhere in  
17 there.

18 Q Are you still practicing as a  
19 insurance broker today?

20 A Yes.

21 Q Are you still a broker for  
22 Mariner Financial?

23 A No.

24 Q Are you familiar with a company  
25 by the name of Rock Fintek, LLC?

1 GILLING

2 A Yes.

3 Q Are you an owner of Rock  
4 Fintek, LLC?

5 A No.

6 Q Were you involved in founding  
7 Rock Fintek, LLC?

8 A No.

9 MR. RAKHUNOV: Objection.

10 Q How did you become aware of the  
11 company Rock Fintek, LLC?

12 A Tommy Kato.

13 Q How long have you known  
14 Mr. Kato?

15 A Roughly 20, 25 years.

16 Q And how long have you been in  
17 business with Mr. Kato?

18 A Clarify that question. I'm not  
19 in business.

20 Q Sure.

21 A I don't own a business with  
22 him.

23 Q When you first met --  
24 withdrawn.

25 Is your relationship with

1 GILLING

2 Mr. Kato a professional relationship, a  
3 personal relationship, or both?

4 A Both.

5 Q At what point in time did your  
6 relationship become professional in nature?

7 A Well, I don't understand that  
8 question.

9 Q All right. Well, to your  
10 knowledge, does Mr. Kato own any other  
11 companies?

12 A Yes.

13 Q What other companies does he  
14 own?

15 MR. RAKHUNOV: Objection.

16 A I don't know specifically the  
17 companies he owns, but he owns other  
18 companies.

19 Q Okay. Are you involved in any  
20 other companies that Mr. Kato owns?

21 MR. RAKHUNOV: Objection. You  
22 can answer.

23 A I don't -- yeah -- I don't --  
24 I'm involved with Rock Fintek. I'm  
25 involved in other -- other things we've

1 GILLING

2 worked on.

3 Q Approximately when did you  
4 first become involved with Rock Fintek?

5 A When the -- when the pandemic  
6 started. Shortly -- right around when the  
7 pandemic started.

8 Q Around 2000?

9 A If that's when the pandemic  
10 started. I'm not -- like I'm not sure. I  
11 could Google that if you'd let me Google  
12 it.

13 MR. RAKHUNOV: Don't Google  
14 anything. Just your best  
15 recollection.

16 A I don't know.

17 Q What kind of company is Rock  
18 Fintek?

19 A It's a trading company.

20 Q What does it trade in?

21 A Well, it was -- my  
22 understanding was it was for trading  
23 electronic goods and then focused on PPE in  
24 the pandemic.

25 Q You mentioned that it was

1 GILLING

2 involved in electronic goods. Was that  
3 prior to the pandemic?

4 A It would be hearsay by me. I  
5 wasn't involved with it for that. That's  
6 why it was set up.

7 Q Okay.

8 A That's what I was told.

9 Q Am I correct in understanding  
10 you were employed at some point in time by  
11 Rock Fintek?

12 A I was contracted as a 1099  
13 employee.

14 Q Do you have a contract, a  
15 written contract, with Rock Fintek?

16 A I do not.

17 Q Do you have any job title in  
18 connection with your responsibilities for  
19 Rock Fintek?

20 A The title given to me was COO,  
21 chief operating officer.

22 Q And what were your job  
23 responsibilities?

24 A Mostly logistics; order  
25 execution, interface with clients,



1 GILLING

2 interface with accounting, sending  
3 invoicing and -- and some procurement of  
4 sales.

5 Q Okay. Do you still work for  
6 Rock Fintek?

7 A I work in a capacity of  
8 recovering funds.

9 Q During your time at Rock  
10 Fintek, what were the kinds of goods that  
11 it traded in?

12 A Masks, gloves, hair bouffants,  
13 booties, gowns. That's all that I can  
14 recollect.

15 Q Do you know who were the  
16 members of Rock Fintek?

17 MR. RAKHUNOV: Objection.

18 A I don't know the -- Tommy Kato  
19 would be the owner of Rock Fintek.

20 Q Is he the sole owner?

21 A I don't know that for certain,  
22 but I would -- it's something you would  
23 have to ask him.

24 Q Do you know when Rock Fintek  
25 was formed?

1 GILLING

2 A I don't.

3 Q Do you know what state Rock  
4 Fintek was incorporated in?

5 A Delaware.

6 Q Is there more than one  
7 corporation that you're aware of named Rock  
8 Fintek, LLC?

9 A No. No. Not that I'm aware  
10 of.

11 Q Is there a relationship that  
12 you're aware of between Rock Fintek and  
13 something by the name of M Hub?

14 A No.

15 Q Are you familiar with M Hub?

16 A I'm familiar with the name  
17 M Hub, yes.

18 Q What is your understanding of  
19 what M Hub is?

20 A It's a merchant services  
21 company.

22 Q Do you have any role in M Hub?

23 A No.

24 Q What is M Hub's -- you said  
25 it's a merchant services company. What

1 GILLING

2 kind of services does it provide?

3 MR. RAKHUNOV: Objection.

4 A I don't know.

5 Q What do you mean by a merchant  
6 services company?

7 A I don't know. It's called a  
8 merchant services. It's -- it's called  
9 Merchant Hub. That's what M Hub stands  
10 for. It's a merchant services company. So  
11 I -- it's credit card processing.

12 Q Are you familiar with a company  
13 by the name of Ascension?

14 A Yes.

15 Q Was Ascension a customer of  
16 Rock Fintek?

17 A Yes.

18 Q Aside from Ascension, did Rock  
19 Fintek have any other customers?

20 A Yes.

21 Q Can you name them?

22 A Fresno Health, Delta Airlines,  
23 Firestone, Patterson Dental, Meyer, City of  
24 New York. Those are the only ones that  
25 come to mind. I assume there's others, but

1 GILLING

2 those are the only ones I remember.

3 Q Are those customers that Rock  
4 Fintek had while you were working for Rock  
5 Fintek?

6 A Yes.

7 MR. RAKHUNOV: Counsel, I'm  
8 sorry; before we go on. I just  
9 want to put on the record, other  
10 than the City of New York and five  
11 other customers that Mr. Gilling  
12 just identified, I just want to  
13 designate those names, just those  
14 names, confidential in the  
15 transcript.

16 MR. SPERBER: Okay.

17 MR. RAKHUNOV: Thank you.

18 Q Would it be accurate to say  
19 that Rock Fintek was filling those  
20 customers' personal protective equipment?

21 A Yes.

22 Q And is Rock Fintek still  
23 selling any of those customers' personal  
24 protective equipment?

25 A No.

1 GILLING

2 Q Is there a reason for that?

3 MR. RAKHUNOV: Objection.

4 A We're out of -- we're out of  
5 business.

6 Q Well, for example, what was  
7 Rock Fintek selling to Delta Airlines?

8 A Masks.

9 Q Did there come a point in time  
10 when Delta Airlines stopped buying masks  
11 from Rock Fintek?

12 A Yes.

13 Q Did Delta indicate that it no  
14 longer needed additional masks from Rock  
15 Fintek?

16 A No.

17 Q Could you explain what happened  
18 there?

19 A I don't -- Delta didn't  
20 indicate that they didn't need more masks.  
21 I don't know what happened with that.

22 Q Do you know why Rock Fintek  
23 stopped selling masks to Delta Airlines?

24 A I don't know.

25 Q What products was Rock Fintek

1 GILLING

2 selling to Firestone?

3 A Masks.

4 Q Again, is Rock Fintek still  
5 selling masks to Firestone?

6 A No. Rock Fintek is out of  
7 business.

8 Q Okay. Again, why did Rock  
9 Fintek stop selling masks to Firestone?

10 A I don't know.

11 Q How about Patterson Dental?  
12 What products was Rock Fintek selling to  
13 Patterson Dental?

14 A I know booties and bouffants  
15 went to them, and I'm not sure what else.  
16 Possibly masks.

17 Q Is Rock Fintek still selling  
18 those goods to Patterson Dental?

19 A No. Rock Fintek is out of  
20 business.

21 Q And, again, why did Rock Fintek  
22 stop selling those goods to Patterson  
23 Dental?

24 A I don't know.

25 Q Who would know the answer to

1 GILLING

2 that question?

3 A I don't know -- I don't know if  
4 there is an answer to that question. I  
5 don't know.

6 Q Okay.

7 A It's plausible there wouldn't  
8 be an answer to that question.

9 Q Approximately when did Rock  
10 Fintek stop selling goods to Delta  
11 Airlines?

12 A I don't know. I don't know  
13 that.

14 Q Was it in 2000?

15 A I don't know.

16 Q Do you have any concept of when  
17 Rock Fintek stopped selling goods to Delta  
18 Airlines?

19 A I don't know.

20 Q How about, do you have any idea  
21 when Rock Fintek stopped selling goods to  
22 Firestone?

23 A No.

24 Q Do you have any idea when Rock  
25 Fintek stopped selling goods to Patterson

1 GILLING

2 Dental?

3 A No.

4 Q Again, who would know the  
5 answer to these questions?

6 MR. RAKHUNOV: Objection.

7 A I don't know. I don't know.

8 Q How many employees does Rock  
9 Fintek have?

10 MR. RAKHUNOV: Objection.

11 A I don't know. I don't know  
12 that specifically.

13 Q Okay.

14 MR. FRISCH: Could I interject  
15 one thing? Because you keep asking  
16 about the pandemic in 2000, and I'm  
17 pretty sure you mean 2020. Just so  
18 that we're clear.

19 MR. SPERBER: You are correct.

20 I meant 2020.

21 Q During your time at Rock  
22 Fintek, how many employees did it have?

23 A I don't know. I would think --  
24 I don't know. I don't know. Tommy Kato  
25 will know.



1 GILLING

2 Q During your time at Rock  
3 Fintek, which other employees of Rock  
4 Fintek did you work with?

5 A I don't -- you're asking -- I  
6 don't know that because you're asking about  
7 employees. Employees is a term that  
8 associates with W-2 transactions. I don't  
9 know if anybody was W-2'd.

10 Q Okay.

11 A I was -- I was contracted, so I  
12 was different. I don't know if any of the  
13 other people associated with Rock Fintek  
14 were contracted.

15 Q Let me rephrase my question.

16 A Sure.

17 Q Let me rephrase my question.  
18 During your time at Rock Fintek, what other  
19 individuals did you work with who were also  
20 working on behalf of Rock Fintek?

21 A Tommy Kato. As a broker, Mike  
22 Boback, Andy Kotsovos, Anna Gajik, and  
23 Artil Burek, who would have been our  
24 technology guy, our computer tech.

25 Q Would any of those individuals

1 GILLING

2 have information as to why Rock Fintek  
3 stopped selling goods to any of its  
4 customers other than Ascension?

5 MR. RAKHUNOV: Objection.

6 A I don't know.

7 Q Would any of those individuals  
8 have information as to when exactly Rock  
9 Fintek stopped selling goods to its  
10 customers other than Ascension?

11 MR. RAKHUNOV: Objection.

12 A I think financial records would  
13 show that. I don't -- I think that's the  
14 only way you would be able to find that.

15 Q Okay.

16 A I don't -- I don't think  
17 anybody specific is going to have that,  
18 like, in the top of their head.

19 Q Do you know, has Rock Fintek  
20 sold goods to any of its other customers in  
21 the last year?

22 A Do I know if they -- I don't  
23 know. I don't know.

24 Q Are you -- were you involved in  
25 drafting Rock Fintek's counterclaim and

1 GILLING

2 third-party complaint in this action?

3 MR. RAKHUNOV: Objection.

4 You might want to be careful  
5 with this one. I don't know where  
6 you're going with that question,  
7 and we're obviously going to avoid  
8 anything that would disclose your  
9 conversations with any attorneys  
10 for Rock Fintek, whether it's me or  
11 my colleagues or any other firms.  
12 I guess you can answer that yes or  
13 no.

14 A What's the question?

15 Q Were you involved with Rock  
16 Fintek's counterclaim and third-party  
17 complaint in this action?

18 A I did not draft the document.  
19 I had conversations with Tommy Kato and our  
20 attorneys.

21 Q Have you seen Rock Fintek's  
22 First Amended Counterclaim and Third-Party  
23 Complaint?

24 A I'm certain I have, yes.

25 MR. SPERBER: I'm going to mark

1 GILLING

2 this document as -- I'll call it  
3 Plaintiff's Exhibit 1. I'll share  
4 my screen.

5 (Whereupon, a Counterclaim /  
6 Complaint was marked as Plaintiff's  
7 Exhibit 1 for identification, as of  
8 this date, by the reporter.)

9 Q Can you see in front of you the  
10 document on your scene?

11 A Yes.

12 Q I'm going to scroll to the  
13 second page of the document. At the very  
14 top it says First Amended Counterclaim and  
15 Third-Party Complaint. Do you see where I  
16 am?

17 A Yes.

18 Q I want to walk through with you  
19 this document and see if you have knowledge  
20 about some of the allegations that are in  
21 here.

22 A Can you expand that, blow it  
23 up?

24 Q Sure. I'm going to start. Can  
25 you take a look at paragraph 17. It reads:

1 GILLING

2 Adorama has routinely faced litigation and  
3 regulatory action for selling unauthorized  
4 knock-off products including electronics.

5 Do you see where I am?

6 A Yes.

7 Q Do you have any personal  
8 knowledge to support the allegations in  
9 that paragraph?

10 A I do not have any personal  
11 knowledge other than, you know, Google  
12 searching Adorama and their, you know,  
13 litigation history with -- with issues  
14 alluding to that.

15 Q Okay.

16 A A public record, I mean, a  
17 public record, but I don't have any direct  
18 memory of specifics.

19 Q Sure. If you look at paragraph  
20 18, it says: Since the start of the global  
21 COVID-19 pandemic, the demand and prices  
22 for PPE skyrocketed, while supplies were  
23 limited, which caused companies like  
24 Adorama, that had historically been  
25 involved in other lines of business, to

1 GILLING

2 insert themselves into the PPE industry.

3 Do you see where I'm at?

4 A Yes.

5 Q Do you have knowledge as to the  
6 price for PPE over the course of the  
7 pandemic?

8 A I would have some knowledge.

9 Q Do you have knowledge about the  
10 price and the way -- the way the price  
11 changed for medical gloves over the course  
12 of the pandemic?

13 A No.

14 Q Were you involved on behalf of  
15 Rock Fintek in purchasing medical gloves  
16 during the course of the pandemic?

17 A Yes.

18 Q As part of your involvement in  
19 that, were you involved in negotiating  
20 prices for those gloves that you were  
21 purchasing, or that Rock Fintek was  
22 purchasing?

23 A I had input with Tommy Kato,  
24 but I was not negotiating price.

25 Q Do you understand what the

1 GILLING

2 market price was for gloves at various  
3 points in time?

4 A Yes, I would have some  
5 knowledge of that.

6 Q Would it be accurate to say  
7 that early in the pandemic price for gloves  
8 went up quite a bit?

9 A I'm sure there is statistic  
10 data on that. I would assume. I don't --

11 Q Was that your experience in  
12 working on behalf of Rock Fintek to  
13 purchase gloves?

14 A We had one glove buyer. It was  
15 our largest client, Ascension Hospital.

16 Q You were -- Rock Fintek was  
17 purchasing gloves, correct?

18 A For our client, Ascension  
19 Hospital.

20 Q Would it be correct to say Rock  
21 Fintek was purchasing gloves from sellers  
22 and then reselling them to Ascension?

23 A Yes.

24 Q And so --

25 A We -- we -- yes. That's not

1 GILLING

2 from resell. I'm not certain if we bought  
3 direct. We did have some direct  
4 opportunities too, but I'm not certain if  
5 we bought from them.

6 Q And so in your capacity of  
7 purchasing gloves on behalf of Rock Fintek,  
8 did you see at the beginning of the  
9 pandemic the price of gloves go up?

10 MR. RAKHUNOV: Objection.

11 A Yeah. I don't have knowledge  
12 about that.

13 Q You have no recollection of  
14 whether prices went up at the beginning of  
15 the pandemic or went down later on?

16 A No, I don't, because when we --  
17 when we went to -- we got an order from our  
18 client and we went to market. So that's  
19 when we went to market. So I wasn't -- I  
20 wasn't in the glove buying business or any  
21 of that until our client asked us to get  
22 gloves.

23 Q Would I be correct in  
24 understanding that Rock Fintek made a  
25 profit on the spread between the price it



1 GILLING

2 was purchasing the gloves for and the price  
3 it was selling the gloves for?

4 MR. RAKHUNOV: Objection.

5 A I don't have knowledge of that.

6 Q Who would have knowledge of  
7 that?

8 A Thomas Kato would have  
9 knowledge about it.

10 Q Taking a look at paragraph 19,  
11 is states that: Kitchen Winners is an  
12 affiliate of Adorama, that Adorama, formed  
13 upon information and belief, for the  
14 purpose of engaging in PPE business and  
15 shielding Adorama from liability for  
16 fraudulent PPE transactions. Do you see  
17 where I am?

18 A Yes.

19 Q Do you have any personal  
20 knowledge to support the allegations in  
21 that paragraph?

22 A I do not.

23 Q It says, Roman Numeral IV, upon  
24 information and belief, for the purpose of  
25 engaging in the PPE business and shielding

1 GILLING

2 Adorama from liability from fraudulent PPE  
3 transactions.

4 Do you have any information  
5 that would support the allegations that  
6 Adorama formed Kitchen Winners for the  
7 purpose of engaging in PPE business?

8 A I do not.

9 Q Do you have any information  
10 that would support the allegation that  
11 Adorama formed Kitchen Winners for the  
12 purpose of shielding Adorama from liability  
13 for fraudulent PPE transactions?

14 A I do not.

15 Q Taking a look at paragraph 20,  
16 it says: Kitchen Winners is an alter ego  
17 of Adorama. Do you see where I am?

18 A Paragraph 20. Yep.

19 Q Do you have any information to  
20 support the allegation that Kitchen Winners  
21 is the alter ego of Adorama?

22 A The information I have about  
23 Kitchen Winners was when we were entering  
24 into a contract for -- for examination  
25 gloves for a hospital, Kitchen Winners was

1 GILLING

2 a newly founded company that was not  
3 collectible and had -- was -- was holding  
4 themself out to sign a multi-million dollar  
5 deal that had, from what we could see, no  
6 financial backing, no record of anything.

7 As that -- and through  
8 discussions, they -- Kitchen Winners  
9 discussed that Adorama was backing them and  
10 Adorama would be the party to the contract,  
11 which we ended up writing a contract for  
12 examination gloves with Adorama as the  
13 company backing the deal, with Kitchen  
14 Winners along as a party of the contract.

15 That's my recollection.

16 Q Did you ever speak with anyone  
17 at Adorama as part of that negotiation?

18 A I believe I was on a phone call  
19 with one of the principals of Adorama.

20 Q And who was that?

21 A Maybe Mendlowitz. I don't  
22 know. If you give me a few names, I could  
23 probably tell you which one.

24 Q Well, when you say you believe  
25 you were on a conference call with someone

1 GILLING

2 from Adorama, you're not -- you're not  
3 sure?

4 A Well, I'm -- we were very  
5 specific that Adorama was the signer of the  
6 contract for examination gloves. And our  
7 attorneys at that time, we -- we needed to  
8 talk to a principal there. We couldn't  
9 rely on Kitchen Winners holding themselves  
10 out as Adorama. So we -- there was a  
11 principal at Adorama that got involved on  
12 the phone because we demanded it.

13 Q Do you have the date of that  
14 phone call?

15 A It would have -- it would have  
16 been prior to the signing of the contract.

17 Q Aside from yourself and an  
18 unnamed individual at Adorama, who else was  
19 on that phone call?

20 A Thomas Kato would have been on  
21 that phone call. I know that for sure.  
22 Hershey. Hershey, I don't know Hershey's  
23 real name. Everybody's got, like, these  
24 nicknames. I don't know if Hershey is even  
25 his name, but a gentleman that went by

1 GILLING

2 Hershey was on the phone call.

3 Q Is that Hershey Weiner?

4 A Yeah. Is that his real name?

5 Q Anyone else that you can think  
6 of who was on the phone call?

7 A Is -- well, I don't know. I'm  
8 asking is Hershey Weiner his name?

9 Q I'm not here to answer your  
10 questions. I'm here to ask. You're here  
11 to answer.

12 A The person I knew of was  
13 Hershey Weiner. It's very possible Eric  
14 Lymon was on it, on that phone call.

15 Q And what did the person from  
16 Adorama tell you on that phone call?

17 A That they were representing  
18 Adorama and that -- and signing the  
19 document for -- with us for buying  
20 examination gloves.

21 Q What else?

22 A That's all I recall.

23 Q Did that person say that  
24 Adorama had formed Kitchen Winners?

25 A I don't know.

1 GILLING

2 Q Did that person say that  
3 Adorama somehow controlled Kitchen Winners?

4 MR. RAKHUNOV: Objection.

5 A I don't know.

6 Q Did that person say that  
7 Adorama comingled funds with Kitchen  
8 Winners?

9 A No. Bank records would show  
10 that, though. I don't know.

11 Q Did that person say that  
12 Adorama and Kitchen Winners have the same  
13 officers?

14 A I don't know.

15 Q Or directors?

16 A I don't know.

17 Q Or did that person say that  
18 they share office space?

19 A I don't know.

20 Q Looking at paragraph 20, it  
21 alleges that Adorama and its principals  
22 dominate and control Kitchen Winners for  
23 the purposes of engaging in fraudulent PPE  
24 transactions as described herein while  
25 seeking to shield creditors' funds received

1 GILLING

2 in those transactions. As detailed below,  
3 Adorama and Kitchen Winners comingled  
4 funds, failed to observe corporate  
5 formalities, share officers, directors, and  
6 office space.

7 Do you see where I am?

8 A Yes.

9 Q Do you have any knowledge to  
10 support those allegations?

11 A I got to read it carefully  
12 again. Hold on.

13 Well, I can -- do I have  
14 knowledge about it? Well, I do know that  
15 they sold us fraudulent PPE. Kitchen  
16 Winners held them out as a party with  
17 Adorama in -- in our -- in our contract  
18 with them so, yeah, they -- they -- I don't  
19 know about dominating and controlling, but  
20 Kitchen Winners certainly alluded and  
21 brought Adorama as the principal signer of  
22 the contract.

23 Comingling funds, I don't know  
24 about that, but I'm sure that will come out  
25 in bank records.

1 GILLING

2 As far as observing corporate  
3 formalities and officers and directors, I  
4 don't -- I don't have any direct knowledge  
5 of that, and I'm sure that's -- we talked  
6 to a principal of Adorama so I would assume  
7 that those two parties were intertwined  
8 with each other.

9 Q You assume that just based upon  
10 the fact that they were on the same phone  
11 call?

12 A No. We were very specific  
13 about having a party that was going to be  
14 responsible for signing the contract.  
15 That's when all this was disclosed about  
16 Kitchen Winners and Adorama being together.  
17 And my recollection of the phone calls  
18 are -- well, I wasn't on all of them. I  
19 was on a lot of them. And we had very  
20 specific marching orders, you know, from  
21 our attorney in how we were going to sign  
22 this contract.

23 So there was due diligence that  
24 was done by our attorney at the time, Tommy  
25 Kato, myself, to vet out signing this



1 GILLING

2 contract for examination gloves. Our  
3 hospital had to have specific gloves for  
4 their -- for their medical staff. And  
5 that's what we were procuring.

6 Q Was it your demand that Adorama  
7 have some involvement in this transaction?  
8 Was that documented in any e-mails?

9 A I don't know. If there's  
10 e-mails you can show me. I could confirm  
11 it, but I don't know.

12 Q Was your attorney or was Rock  
13 Fintek's attorney on that phone call with  
14 the individual from Adorama?

15 A I don't know that for certain.

16 Q Aside from the single phone  
17 call, did you ever --

18 A I didn't say that was a single  
19 phone call. You're twisting words there.  
20 There was multiple phone calls and, you  
21 know, different phone calls with different  
22 parties.

23 Q Well, how many phone calls was  
24 Adorama on or an individual from Adorama  
25 on?

1 GILLING

2 A I was on one phone call with  
3 this individual.

4 Q Aside from that -- that single  
5 phone call, did you ever, on any other  
6 occasions, speak with anyone from Adorama?

7 A Not that I recall.

8 Q Do you have any recollection of  
9 e-mailing anyone from Adorama directly?

10 A I don't have any recollection.

11 Q Do you have any recollection of  
12 receiving any e-mails from anyone at  
13 Adorama directly?

14 A No, but I'm -- no, but I'm sure  
15 if that's out there, it's out there. I  
16 believe there is e-mails copied of -- with  
17 the principal at Adorama. It's the only  
18 way this document could have been signed.

19 Q Do you have any recollection of  
20 communicating with anyone at Adorama  
21 directly via text?

22 A If Hershey Weiner is a  
23 part of Adorama, I'm not sure if I had  
24 texts. There were some WhatsApp messages,  
25 I think with him.

1 GILLING

2 Q Aside from Hershey --

3 A I'm getting confused whether  
4 Kitchen Winners was Adorama. I think  
5 that's what -- I don't -- is Hershey Weiner  
6 a part of Adorama?

7 Q Again, I'm not here to answer  
8 questions. I'm here to ask them.

9 A Okay.

10 MR. RAKHUNOV: Just do -- just  
11 do the best of your knowledge.

12 A I don't know. I don't know.

13 Q Do you have any recollection of  
14 communicating in any other way directly  
15 with anyone employed by Adorama?

16 A No. I don't know.

17 Q You mentioned that you were  
18 communicating with Hershey Weiner via  
19 WhatsApp, correct?

20 A I think so.

21 MR. SPERBER: I have not seen  
22 those produced in this action. I'm  
23 going to call for production of any  
24 WhatsApp communications between Mr.  
25 Gilling and Mr. Weiner.

1 GILLING

2 MR. RAKHUNOV: Yeah, we'll  
3 confirm. We'll check again whether  
4 any exist and if they do, we will  
5 absolutely produce them. I don't  
6 know that they exist.

7 Q Mr. Gilling, you mentioned that  
8 you had that phone call where there was an  
9 individual from Adorama who was on the  
10 line. How did you confirm that person was  
11 from Adorama?

12 A I don't recall.  
13 I don't know how you can  
14 confirm anybody is who they are on a phone  
15 call, to be honest with you.

16 Q If you take a look at paragraph  
17 21, the last sentence says: Upon  
18 information and belief, Kitchen Winners did  
19 not even have a separate bank account at  
20 the time of the parties' business dealings  
21 at issue.

22 Do you see where I am?

23 A Yes.

24 Q Do you have any personal  
25 knowledge for the assertion that Kitchen

1 GILLING

2 Winners did not have a separate bank  
3 account at the time the parties were  
4 dealing with one another?

5 A We sent all payments to  
6 Adorama. So I don't know if Kitchen  
7 Winners had a separate bank account. All  
8 payments that were contracted for  
9 examination gloves was to Adorama.

10 Q But beyond the fact that you  
11 were making payments or Rock Fintek was  
12 making payments to Adorama, do you have any  
13 basis to believe that Kitchen Winners did  
14 not have a bank account of its own?

15 A Well --

16 MR. RAKHUNOV: Objection.

17 A Adorama was shorting us gloves  
18 and saying they delivered them on trucks,  
19 and the accounting wasn't matching up so  
20 they owed us money at different times. And  
21 we were making demands for that money. And  
22 it needed to come out of Adorama's bank  
23 account. So I don't -- I don't know if  
24 Kitchen Winners has a separate bank  
25 account. I don't have knowledge of that.

1 GILLING

2 I just know that we made payments, all  
3 payments to Adorama.

4 Q If you take a look at paragraph  
5 22, it says: Prior to entering into the  
6 SPA, Mendlowitz, acting on behalf of  
7 Adorama, provided the document to Rock  
8 Fintek in which he instructed and stated  
9 that Kitchen Winners New York, Inc. are  
10 authorized to act on our, Adorama's, behalf  
11 to procure nitrile gloves and discuss  
12 subject to contract.

13 Do you see where I am?

14 A Yeah, I do.

15 Q Do you know what document this  
16 is referring to?

17 A I do not.

18 Q When it says here that Adorama  
19 -- that Mendlowitz provided a document to  
20 Rock Fintek, do you know in what manner he  
21 provided that document? When I say that, I  
22 mean e-mail or mail or some other fashion?

23 A I don't know.

24 Q You have no knowledge of the  
25 document being referenced in this

1 GILLING

2 paragraph?

3 A I do not.

4 MR. SPERBER: I'll just note  
5 for the record that to my knowledge  
6 no such document has been produced  
7 in this action, and I call for  
8 production of it.

9 Q Take a look at paragraph 23.  
10 It refers to an individual named Mendel  
11 Bannon, who had said was an employee and  
12 agent of Adorama and Kitchen Winners.

13 A Uh-huh.

14 Q Do you have documents in which  
15 Mr. Bannon claims to be an employee of  
16 Adorama?

17 A I don't have any documents.

18 Q Do you have any documents in  
19 which Mr. Bannon claims to be an agent of  
20 Adorama?

21 MR. RAKHUNOV: Objection.

22 A I don't have any documents.

23 Q Do you have any documents in  
24 which Mr. Bannon claims to be an employee  
25 of Kitchen Winners?

1 GILLING

2 A Yeah --

3 THE REPORTER: I didn't hear  
4 the answer.

5 A Do I have documents?

6 Q She didn't get your answer.

7 Do you have any documents in  
8 which Mr. Bannon claims to be an employee  
9 of Kitchen Winners?

10 A Just verbal.

11 Q Did Mr. Bannon verbally tell  
12 you he was an employee of Adorama?

13 A Yeah. Mendel Bannon held  
14 himself out as a representative of Kitchen  
15 Winners and associated with Adorama.

16 Q Taking a look at paragraph 24.  
17 It says that: Accordingly, Kitchen Winners  
18 is a mere shell set up by Adorama in an  
19 ineffective effort to shield Adorama and  
20 its principals from liability from  
21 fraudulent PPE transactions.

22 Do you see where I am?

23 A Yes.

24 Q Again, do you have any  
25 knowledge to support the assertion that



1 GILLING

2 Kitchen Winners is a mere shell set up by  
3 Adorama?

4 MR. RAKHUNOV: Objection.

5 A No.

6 Q Paragraph 25, it says: In  
7 early 2021, Rock Fintek was introduced to  
8 Weiner, Mendlowitz, and other  
9 representatives of Adorama and Kitchen  
10 Winners, including their employee and  
11 agent, Mendel Bannon. Do you see where I  
12 am?

13 A Yes.

14 Q Do you know what this paragraph  
15 is referring to when it says that Rock  
16 Fintek was introduced to Mr. Mendlowitz?

17 A Yeah. It would have been when  
18 we were doing the contract and needed the  
19 actual principal to sign, Adorama.

20 Q Who did the introducing?

21 A I think Mendel did the  
22 introducing.

23 Q Was this an in-person meeting?

24 A I don't know, but Tommy Kato  
25 had an in-person meeting with Mendel.

1 GILLING

2 Q Did you yourself ever have an  
3 in-person meeting with Weiner?

4 A No.

5 Q Did you yourself ever have an  
6 in-person meeting with Mendlowitz?

7 A No.

8 Q Did you yourself ever have an  
9 in-person meeting with any representatives  
10 or either Adorama or Kitchen Winners?

11 A No.

12 Q Take a look at paragraph 26.  
13 It says: Around the same time, Rock Fintek  
14 was also introduced to Joel Stern.

15 Do you see where I am?

16 A Yes.

17 Q Who introduced Rock Fintek to  
18 Joel Stern?

19 A I believe it was a broker,  
20 Mrs. Li.

21 Q Have you yourself ever met  
22 Mr. Stern in person?

23 A No.

24 Q Paragraph 26 goes on: Upon  
25 information and belief, Stern and JNS are

1 GILLING

2 not corporate affiliates of Adorama or  
3 Kitchen Winners but act as agents of  
4 Adorama and Kitchen Winners.

5 A I missed what you're saying.  
6 Can you highlight what you're talking  
7 about?

8 Q Sure.

9 A Right there. Got it.

10 Q I'll just read it again. Upon  
11 information and belief, Stern and JNS are  
12 not corporate affiliates of Adorama or  
13 Kitchen Winners but have acted as agents of  
14 Adorama and Kitchen Winners when holding  
15 themselves out as a reseller of gloves  
16 provided by the Adorama parties.

17 Do you see where I am?

18 A Yes.

19 Q Has anyone at Adorama ever told  
20 you that Stern or JNS were an agent of  
21 Adorama?

22 A I'm not sure.

23 Q Has anyone at Kitchen -- I'm  
24 sorry.

25 MR. RAKHUNOV: No. I just

1 GILLING

2 wanted to chime in to respond to  
3 something that you said a few  
4 minutes ago about the document  
5 quoted in I believe paragraph 22 of  
6 the counterclaim not being  
7 produced. And I just want to make  
8 sure it's clear on the record the  
9 document was produced. It's an  
10 attachment to one of the WhatsApp  
11 chats that we produced in native  
12 format. I don't -- I can't readily  
13 identify a Bates number because we  
14 produced the file in the way that  
15 it was ordinarily kept, but I will  
16 tell you it's a WhatsApp chat with  
17 Arik Maimon.

18 Q Mr. Gilling, has anyone at  
19 Kitchen Winners ever told you that Stern or  
20 JNS are agents of Kitchen Winners?

21 A Define agents. I don't  
22 understand the context of that.

23 Q Has anyone at Kitchen Winners  
24 ever told you that Stern or JNS were acting  
25 on Kitchen Winners' behalf when selling

1 GILLING

2 gloves to Rock Fintek?

3 A Absolutely.

4 Q And who was the individual that  
5 told you that?

6 A Both Hershey Weiner and Mendel.  
7 And they were acting on behalf of Kitchen  
8 Winners in conjunction with Adorama. That  
9 was all part of -- that was all part of the  
10 structure of the deal.

11 Q When you say Mendel, you're  
12 referring to Mendel Bannon?

13 A Yes. Mendel Bannon, yes.

14 Q Did Hershey Weiner tell you in  
15 writing that Stern or JNS was acting on  
16 Kitchen Winners' behalf as a reseller of  
17 gloves?

18 MR. RAKHUNOV: Objection.

19 A I don't -- I don't have  
20 knowledge of that, but it's possible in an  
21 e-mail or a text message.

22 Q Did Mendel Bannon tell you in  
23 writing that Kitchen -- that Stern or JNS  
24 was acting as a reseller of gloves on  
25 behalf of Kitchen Winners?

1 GILLING

2 A I don't have knowledge of that.

3 Q This was verbal, as far as you  
4 recall?

5 A Correct.

6 MR. RAKHUNOV: Objection.

7 A Correct.

8 (Whereupon, a short recess was  
9 taken.)

10 Q Mr. Gilling, if you go to  
11 paragraph 27, it says Stern, Weiner,  
12 Mendlowitz, and Bannon told Rock Fintek  
13 that Adorama and Kitchen Winners had a  
14 connection to a new nitrile glove  
15 manufacturer in China.

16 Do you see where I am?

17 A Yes.

18 Q When it says that Weiner told  
19 this to Rock Fintek -- I'm sorry, let --  
20 withdrawn.

21 When it says that Mendlowitz  
22 told Rock Fintek that Adorama and Kitchen  
23 Winners had a connection with a  
24 manufacturer in China, when is this  
25 referring to?

1 GILLING

2 A Nitrile gloves.

3 Q No. At what point in time did  
4 Mendlowitz tell that to Rock Fintek?

5 A I don't know.

6 Q Did Mendlowitz ever tell that  
7 to you?

8 A I don't know.

9 Q Did anyone at Adorama ever tell  
10 you that Rock Fintek -- that they had a  
11 connection with a glove manufacturer in  
12 China?

13 A I wasn't the lead person on  
14 these phone calls, so I didn't -- I wasn't  
15 asking those questions.

16 Q Who was the lead person?

17 A Tommy Kato.

18 Q You have no knowledge of any  
19 such communication from Mendlowitz?

20 A Correct.

21 MR. RAKHUNOV: Objection.

22 MR. FRISCH: Objection.

23 A I would have been on the phone  
24 calls.

25 Q You were on the phone calls,

1 GILLING

2 but you don't recall Mendlowitz ever saying  
3 such a thing. Correct?

4 A Had a connection to a new glove  
5 -- nitrile glove manufacturer in China that  
6 manufactured MedCare gloves.

7 Well, what I recall about this  
8 is that Adorama and Kitchen Winners held  
9 themselves out as being the exclusive  
10 distributor of all MedCare gloves in the  
11 United States.

12 Q When you say that Adorama held  
13 itself out, along with Kitchen Winners, as  
14 an exclusive seller of MedCare gloves, who  
15 at Adorama told you that?

16 A Well, the only person on those  
17 phone calls or phone call that I was on  
18 would be Mendlowitz.

19 Q Again, that was one phone call?

20 A I'm not sure if there was more  
21 than one phone call.

22 Q You only recall one phone call?

23 A Correct.

24 Q And again, what specifically  
25 did Mendlowitz tell you?



1 GILLING

2 A I don't know if it was  
3 Mendlowitz, Bannon, Weiner, or Stern. I  
4 don't know which one of them would have  
5 held themselves out. But it was very  
6 definitive that they were the sole  
7 distributor of MedCare gloves in the United  
8 States.

9 Q Am I correct that you purchased  
10 MedCare gloves both from Kitchen Winners  
11 and from JNS?

12 A We -- we bought them from --  
13 from three parties; Kitchen Winners,  
14 Adorama, and JNS.

15 Q Okay. So you said someone told  
16 you they were the sole distributor. How  
17 did that work if you were buying from three  
18 different parties?

19 MR. RAKHUNOV: Objection.

20 A Well, Stern told me he was  
21 getting them from Adorama/Kitchen Winners,  
22 and Kitchen Winners was holding themselves  
23 out as the sole distributor. However, they  
24 went on to say that Adorama was backing  
25 them as the sole distributor.

1 GILLING

2 Q Mr. Gilling, how were you paid  
3 for your work at Rock Fintek?

4 A A percentage of profit.

5 Q You made a commission?

6 A I got paid a percentage of  
7 profits.

8 Q What percentage of the profit  
9 did you -- were you entitled to?

10 A It varies.

11 Q Again, was there a contract  
12 that said this?

13 A No. I mean we --

14 Q Can you explain to me how was  
15 your pay calculated?

16 A Based on negotiation per deal.

17 Q So for each of these glove  
18 deals, you would make a different percent?

19 A No. On this -- on this  
20 specific deal -- we had multiple deals.  
21 This specific deal was 10 percent of  
22 profits.

23 Q Okay. Before joining Rock  
24 Fintek, did you have any experience dealing  
25 with PPE?

1 GILLING

2 A No.

3 Q And when I say PPE, do you  
4 understand that I'm referring to personal  
5 protective equipment?

6 A No.

7 Q Do you understand what PPE  
8 refers to?

9 A Restate your question because  
10 you --

11 Q Do you understand what the  
12 abbreviation PPE refers to?

13 A Yes.

14 Q What does it refer to?

15 A Personal protection equipment.

16 Q I'm sorry. I missed your  
17 answer earlier. Before you were with Rock  
18 Fintek, did you have any experience dealing  
19 with PPE?

20 A No.

21 Q In paragraph 28 it refers to a  
22 distinction between medical grade  
23 examination gloves and protection gloves.  
24 Do you see where I'm referring to?

25 A Yes.

1 GILLING

2 Q Do you have any knowledge as to  
3 the distinction between examination gloves  
4 and protection gloves?

5 A Yes.

6 Q Okay. What is your  
7 understanding?

8 A Well, it's very specific. I  
9 believe it's D-6319 is specific to the  
10 examination glove for hospital use, medical  
11 use, which was part of our contract. Any  
12 other glove would be not suitable to be  
13 used in a hospital setting for -- for  
14 doctor and nurse care.

15 Q It says here that the term  
16 medical grade examination glove is an  
17 industry term of art that carries specific  
18 chemical and use specifications.

19 A Correct.

20 Q Where does your knowledge --  
21 let me -- withdrawn.

22 Do you have any knowledge as --  
23 withdrawn.

24 How did you learn about this  
25 industry term of art?

1 GILLING

2 A Well, through study, through  
3 the demand by our contract from our  
4 hospital to have ASTM D6319 gloves were the  
5 only thing we could procure and deliver to  
6 our client. So it's a very specific  
7 medical grade glove.

8 Q You're saying that ASTM D6319  
9 applies to examination gloves, correct?

10 A Well, I'm not sure if that's  
11 the exact standard, but the D-6319 is.

12 Q What standard applies to  
13 protection gloves?

14 A They wouldn't have a standard.

15 Q How do you know that?

16 A They would be for janitors.

17 Q How do you know that?

18 A Their standard?

19 Q How do you know the difference  
20 between examination gloves and protection  
21 gloves?

22 A By the standard that --

23 MR. RAKHUNOV: Objection.

24 What time period are you asking

25 Mr. Gilling for his knowledge? You

1 GILLING

2 know, today, when we're well into  
3 this lawsuit, or what knowledge he  
4 had at the time that the contract  
5 was executed?

6 Q I'm asking him as of today.

7 A I'm very knowledgable about --  
8 about gloves and the characteristics and  
9 the testing of gloves.

10 Q I'm asking you; how do you know  
11 about the distinction between examination  
12 gloves and protection gloves?

13 A It's an actual designation  
14 given for the glove. So if you do not have  
15 it, an ASTM D6319, it is not for use in the  
16 medical setting.

17 Q Again, how do you know --

18 A A protection glove does not  
19 have that designation.

20 Q How do you know that protection  
21 gloves do not have that designation?

22 A Well, first of all, it has to  
23 say examination glove on the box, and it  
24 says protection. So a hospital wouldn't  
25 accept it because it doesn't read right.

1 GILLING

2 And through all of our process of these  
3 gloves failing, the first thing noticed was  
4 it didn't say examination glove across the  
5 front of the box, which is designated by  
6 every examination glove, actual examination  
7 glove, that would go into a hospital  
8 setting.

9 Q You said that it has to say  
10 examination glove on the box. When you say  
11 "has to," where does that come from?

12 A Well, I don't know if it has to  
13 say it, but it is industry standard that  
14 examination needs to be written on the box.  
15 And it could very likely be it has to say  
16 examination, but it has to be designated  
17 ASTM D6319 as the medical standard for  
18 examination. Those two terms are universal  
19 in the glove industry. An examination  
20 glove being ordered is associated with the  
21 ASTM D6319 designation. It's protocol and  
22 it's standard talk about buying gloves.

23 Q Mr. Gilling, how many customers  
24 did Rock Fintek have for medical gloves?

25 A One.

1 GILLING

2 Q And, again, before working for  
3 Rock Fintek, you had no experience with  
4 medical gloves, correct?

5 A Correct.

6 Q So all your experience comes  
7 from dealing with one customer?

8 A Correct.

9 Q So how do you know what the  
10 industry standard is?

11 A By reading extensively, by  
12 talking to professionals in the industry,  
13 by dealing with our procurement company  
14 resource group that we work with to secure  
15 the wording and the contract and  
16 specifically what they needed, and by the  
17 standards of the ASTM D6319 which is a  
18 fairly straightforward document that for  
19 testing in durability of the glove. It's  
20 not rocket science. Anybody could take the  
21 testing and make sure that the gloves that  
22 are provided to you fit for -- for what  
23 they are. It's not -- it's not rocket  
24 science.

25 Q Did Rock Fintek have a contract



1 GILLING

2 at some point in time with Kitchen Winners?

3 A Yes. We had a contract with  
4 Adorama and Kitchen Winners.

5 Q Did it put into that contract  
6 that the gloves you were purchasing had to  
7 comply with ASTM D6319?

8 A I'm not sure of that. It had  
9 examination gloves in there, which is the  
10 interchangeable term.

11 And it was discussed repeatedly  
12 on all of our phone calls in procuring the  
13 doc -- or procuring the gloves. About the  
14 standards, the testing, and everything we  
15 needed.

16 Q If you look at paragraph 29, it  
17 says that: Rock Fintek expressly explained  
18 orally and in writing to Stern, Weiner,  
19 Mendlowitz, and Bannon that all gloves that  
20 Rock Fintek purchased from the Adorama  
21 seller and the JNS sellers would be  
22 immediately sold to Rock Fintek's hospital  
23 group client in the United States for use  
24 by medical professionals.

25 Do you see where I am?

1 GILLING

2 A Yes.

3 Q Okay. Where in writing did  
4 Rock Fintek inform Mendlowitz that all the  
5 gloves would be purchased by a hospital  
6 group client in the U.S.?

7 A I don't know about in writing.  
8 We had a contract to buy examination  
9 gloves, so that's in writing. And there  
10 was very repeated knowledge of we were  
11 selling it in the hospitals and could only  
12 accept examination gloves per our contract.

13 Q Again, where in writing did you  
14 ever -- did Rock Fintek ever disclose the  
15 identity of the customer to Weiner,  
16 Mendlowitz, or Bannon?

17 MR. RAKHUNOV: Let him finish  
18 the question.

19 THE WITNESS: Okay, sorry.

20 A Repeat the question, please.

21 Q Where in writing did Rock  
22 Fintek identify the customer to Stern,  
23 Weiner, Mendlowitz, and Bannon?

24 A We never disclosed our  
25 customer; only it was a hospital. We

1 GILLING

2 wouldn't disclose our customer.

3 Q Paragraph 32 says that in March  
4 2021, prior to engaging in any of the  
5 transactions at issue, and in order to  
6 induce Rock Fintek to buy gloves from  
7 Adorama and Kitchen Winners, Bannon  
8 provided Rock Fintek various materials  
9 describing the purported MedCare  
10 examination gloves that Adorama and Rock --  
11 Kitchen Winners were intending to sell to  
12 Rock Fintek, including the 84-page MedCare  
13 product presentation.

14 Do you see where I am?

15 A Yes.

16 Q To whom did Bannon send those  
17 materials?

18 A I don't know specifically who  
19 he sent it to. It was -- I don't know  
20 specifically.

21 MR. SPERBER: I'll note for the  
22 record here again that I have not  
23 seen this document or any documents  
24 in the production that we have  
25 received. I would call for the

1 GILLING

2 production.

3 MR. RAKHUNOV: I will say I  
4 think you should take a closer look  
5 at the production. I believe that  
6 has been produced. But we'll take  
7 another look.

8 MR. SPERBER: Okay. Thank you.

9 Q If you look under 34, it says:  
10 Through these written materials, Adorama  
11 sellers and JNS sellers described, quote,  
12 MedCare nitrile force nitrile examination  
13 glove, end quote, as meeting certain  
14 specifications and standards, including  
15 certain ASTM international certificates,  
16 FDA 510(k) certification, and other  
17 international standards.

18 Do you see where I am?

19 A Yes.

20 Q How did the Adorama sellers  
21 make this kind of representation?

22 A Identify Adorama sellers. I  
23 don't --

24 Q Let me --

25 A Who are you referring to as

1 GILLING

2 Adorama sellers?

3 Q Did Mendlowitz provide anyone  
4 at Rock Fintek with any written materials  
5 describing the gloves that would be sold to  
6 Rock Fintek?

7 A I'm not sure.

8 Q Did anyone else at Adorama, to  
9 your knowledge, provide anyone at Rock  
10 Fintek with any written materials  
11 describing the gloves that would be sold to  
12 Rock Fintek?

13 A I'm not sure.

14 Q Did Mendlowitz provide Rock  
15 Fintek with any written materials  
16 describing the gloves needing FDA 510(k)  
17 certifications?

18 A I'm not sure.

19 Q How about anyone else at  
20 Adorama?

21 A You have to identify Adorama.  
22 I don't know -- Adorama to me is Kitchen  
23 Winners, so if it's Kitchen Winners, yes.

24 Q And how about if we exclude  
25 Kitchen Winners and Hershey Weiner?

1 GILLING

2 A So -- so this is confusing,  
3 your question, because Kitchen Winners and  
4 Adorama were told to me by those parties as  
5 being the same company. So you're  
6 separating them other than how they told it  
7 to me, so we were told --

8 Q Who at Adorama told you they  
9 were the same company?

10 A Kitchen Winners held themselves  
11 out as part of Adorama. So Mendlowitz,  
12 Mendlowitz on the phone call, who signed  
13 the contract to be the seller and who we  
14 were paying Adorama, they were the seller  
15 of these MedCare nitrile force nitrile  
16 examination gloves. Adorama was. They  
17 sign the contract as the seller. That's  
18 who we were buying. Kitchen Winners was a  
19 party to it. That was my understanding of  
20 that.

21 And regarding the  
22 certifications, we went through the  
23 certifications multiple times and all  
24 parties held out that these gloves had the  
25 proper certifications for examination

1 GILLING

2 gloves to be used in a hospital setting.

3 Q Did Mendlowitz provide Rock  
4 Fintek with any written materials  
5 describing the gloves being manufactured by  
6 Zhonghong, Grinvalt Technology Co.,  
7 Limited?

8 A I'm not sure.

9 Q Did anyone else at Adorama  
10 provide written materials to Rock Fintek  
11 describing the gloves as being manufactured  
12 by Zhonghong Technology Co., Limited?

13 A I'm not sure. I don't know.

14 Q Did Mendlowitz provide Rock  
15 Fintek with any written materials  
16 whatsoever describing the gloves as fit for  
17 performing medical examination, diagnostic,  
18 or therapeutic intervention and for work  
19 with infectious medical materials and that  
20 they protect the patient from  
21 contamination?

22 MR. RAKHUNOV: Objection.

23 A Well, Adorama signed a document  
24 specific to buying examination gloves, not  
25 protection gloves, examination gloves, for

1 GILLING

2 our hospital.

3 So they were -- he signed a  
4 document for industry standard examination  
5 gloves that we were purchasing from them.  
6 MedCare made two types of gloves. One was  
7 a very inexpensive glove called protection;  
8 one was an examination glove that they were  
9 buying at different price points. We were  
10 getting examination gloves, very specific  
11 on the box. And that's what we signed the  
12 contract for. And Adorama acknowledged  
13 that, and that's what we were buying.

14 Q Aside from the contract, aside  
15 from the sales and purchase agreement  
16 between the parties, did Mendlowitz provide  
17 Rock Fintek with any other documentation  
18 concerning the gloves?

19 A Other than the contract that --  
20 that Adorama signed for examination gloves?  
21 I don't know.

22 Q Okay. Other than the contract  
23 between the parties, did anyone else at  
24 Adorama provide Rock Fintek with any  
25 documentation concerning the gloves?



1 GILLING

2 A Only the -- only the contract  
3 for examination gloves that they signed.  
4 To my knowledge.

5 Q Take a look at paragraph 37  
6 where it says: In addition, Adorama and  
7 Kitchen Winners provided Rock Fintek with a  
8 copy of the same FDA 510(k) approval letter  
9 as Stern for another potential MedCare  
10 glove manufacturer known as Zhonghong Pulin  
11 Medical Products Co., Limited.

12 Do you see where I am?

13 A Yes. It would help if you  
14 highlighted it as you're telling me.

15 Q Who at Adorama provided that  
16 document or documents to Rock Fintek?

17 A Adorama and Kitchen Winners  
18 were -- were interchangeable as parties to  
19 selling us this, so I think that statement  
20 is accurate, as we -- we reviewed them as  
21 one.

22 Q So you're saying the only --  
23 the only person who provided you any kind  
24 of document like this would be either  
25 Kitchen Winners or Hershey Weiner?

1 GILLING

2 A I don't know.

3 Q Did Weiner --

4 A Mendel -- Mendel could do it  
5 too. I don't know. If you're saying just  
6 those people, I don't know.

7 Q Did Weiner provide Rock Fintek  
8 with the document being referenced in  
9 paragraph 37?

10 A I don't know.

11 If you want to show me the  
12 e-mail, if there is an e-mail that exists  
13 that would gladly jog my memory, that would  
14 help. But I know most of this was done via  
15 WhatsApp or e-mail.

16 Q Why is it that the ASTM  
17 specifications that Rock Fintek claimed in  
18 paragraph 37 were material to its decision  
19 to enter into the SPA? Why is it that  
20 those ASTM specifications are not mentioned  
21 anywhere in the SPA?

22 MR. RAKHUNOV: Objection.

23 A I don't -- you'd have to show  
24 it to me.

25 Q We'll take a look at it later.

1 GILLING

2 Take a look at paragraph 42,  
3 which says that each of the Adorama,  
4 Kitchen Winners, Stern, and JNS, and their  
5 agents knew at all pertinent times that due  
6 to COVID-19 related safety restrictions,  
7 Rock Fintek's and its contracted logistics  
8 providers and truck drivers were not  
9 permitted to unseal the pallets of gloves  
10 delivered by defendant and could not open  
11 and inspect the packaging or contents of  
12 the boxes of gloves prior to the gloves  
13 being shipped to Ascension warehouses  
14 around the United States.

15 Do you see where I am?

16 A Yes.

17 Q What is the actual basis for  
18 the assertion that Adorama knew Rock Fintek  
19 was not permitted to unseal the pallets of  
20 gloves that it was purchasing?

21 A Well, the factual -- it's a  
22 fact at that time you -- you had to back up  
23 to the a warehouse. Driver wasn't allowed  
24 to go in the warehouse. The pallets were  
25 loaded and then the -- it was sealed.

1 GILLING

2 The door was closed and sealed with a tape  
3 that -- it was tamper-proof, and then it  
4 would be backed up into our client -- into  
5 MedLine, which houses the gloves for -- for  
6 Ascension Hospital, would be backed up.  
7 That seal would be cut and they would  
8 unload, with the driver not present because  
9 of COVID and COVID protocol.

10 Secondly, to add to that, in  
11 logistics, a truck driver is a hired third  
12 party that has no responsibility in viewing  
13 or looking at, inspecting gloves that are  
14 picked up at any time. They are -- that is  
15 all part of the responsibility in the  
16 contract of getting what you're purchasing  
17 and delivering it to the end user.

18 So -- so in this -- you're  
19 asking me a question about inspecting  
20 packaging and contents of the gloves? It  
21 just was impossible to do that. And it's  
22 not protocol for a driver to do that.

23 Q Did you personally ever tell  
24 anyone at Adorama that Rock Fintek was not  
25 permitted to unseal the pallets of gloves

1 GILLING

2 in the first instance?

3 A Restate that?

4 Q Did you personally ever tell  
5 anyone at Adorama that Rock Fintek was not  
6 permitted to unseal the pallets of gloves  
7 they were purchasing?

8 A Did I personally tell anybody  
9 at Adorama -- please say it again.

10 Q Did you personally tell anyone  
11 at Adorama that Rock Fintek was not  
12 permitted to unseal the pallet of gloves it  
13 was purchasing?

14 A I was only on one phone call  
15 with -- with Mendlowitz, so no. The answer  
16 to that is no.

17 Q How do you know that Adorama  
18 knew that Rock Fintek was not allowed to  
19 unseal the pallets of gloves they were  
20 purchasing?

21 A Well, there's several ways.  
22 One is when -- when Adorama loaded our  
23 truck with LevMed gloves, which was a  
24 disaster for us, and they put the gloves on  
25 our truck, which -- which nobody could

1 GILLING

2 view, and they delivered them into MedLine,  
3 and a day or two later I get an e-mail from  
4 Vince at Resource Group saying hey, you  
5 know, what are there LevMed gloves? I said  
6 I don't know. And he -- we didn't deliver  
7 them.

8 And then Vince came back a few  
9 hours later and was like hey, this came off  
10 your truck that you delivered at  
11 such-and-such a time, and MedLine tracks  
12 every truck, every -- everything that comes  
13 in, very specifically, even into what slot  
14 they go in the warehouse. He said well, it  
15 turns out you delivered this.

16 And I said I don't know what  
17 you're talking about. So I reached out to  
18 Kitchen Winner/Adorama folks, and they  
19 denied it, of course. And then later, when  
20 we -- we documented more that this  
21 happened, then they said oh, yeah, those  
22 are -- there was a mistake, and had some  
23 old crazy story about it.

24 I said listen; they're in the  
25 hospital setting. We need documentation of

1 GILLING

2 what these gloves are. And there was a  
3 whole lot of discussion about that. And  
4 then that's when Mendel, you know,  
5 fraudulently sent over, you know, fake  
6 documents of what those gloves were, which  
7 we presented to our hospital.

8 And, you know, began the -- the  
9 biggest problem that we had in this case on  
10 the outset was we delivered gloves that we  
11 -- we didn't know what they were, and they  
12 were the wrong gloves, with no  
13 documentation. That was fabricated, so on  
14 and so forth.

15 So that answers your question  
16 how did we -- did they know, did we know?  
17 Yeah, because of that example right there,  
18 which was early on in the pickup of these  
19 gloves that that happened to us. And it  
20 was because nobody could see it. The --  
21 the trucks were sealed, delivered, and  
22 opened up and even loaded and put in racks.

23 And so that was the first, you  
24 know, disastrous issue we had with our  
25 client was dealing with that.

1 GILLING

2 Q Was there any law or regulation  
3 that prohibited Rock Fintek from examining  
4 the gloves that it was picking up?

5 MR. RAKHUNOV: Objection.

6 A I'm not a lawyer. I don't know  
7 if there's a law.

8 Q Okay. So not that you're aware  
9 of?

10 A That a law exists about  
11 examining?

12 Q Let me rephrase the question.  
13 What stopped Rock Fintek from deciding to  
14 open up the pallets of gloves it was  
15 purchasing to examine them when it was  
16 taking it off?

17 A I just -- do you want me to  
18 repeat the whole protocol in trucking --

19 Q No. What I'm asking you is --

20 A -- and sealing a truck and  
21 delivering it? I don't -- we're not -- so  
22 Rock Fintek is a -- is a trading company.  
23 So we hire third party logistics to handle  
24 this sort of thing. So Demarco was our  
25 third party logistics company.



1 GILLING

2 But anyways, they're our third  
3 party logistics provider. They -- they  
4 deliver the gloves, and we fell under their  
5 protocol for pickup and delivery of product  
6 that we contractually were buying.

7 So, you know, they go with  
8 their -- with their trucks, get the bill of  
9 lading from Adorama/Kitchen Winners, from  
10 their side, take that bill of lading that  
11 says what's on our trucks, go there in a  
12 sealed -- sealed truck that gets backed up  
13 into MedLine. They unseal it, they take it  
14 out and count pallets and the boxes that --  
15 or the cartons that are on there.

16 And, unfortunately, what really  
17 upset this whole contract at the beginning  
18 was we were being shorted almost every load  
19 by Adorama and Kitchen Winners with what  
20 the bill of lading said and what was on our  
21 truck. We were dealing with that from the  
22 beginning as a problem with our client that  
23 we were not picking up the amount we said  
24 we were picking up and delivering.

25 And that was quite of point of

1 GILLING

2 contention with Hershey Weiner and Mendel  
3 along the way until they finally admitted,  
4 after multiple truck loads, that they were  
5 shorting us.

6 Q Who told you or who told Rock  
7 Fintek that it was not allowed to open up  
8 the pallets of gloves it was purchasing at  
9 the time of pickup?

10 A You couldn't go into a  
11 warehouse and see any of that. So --

12 Q Who --

13 A Demarco, our third party  
14 logistics carrier.

15 Q I'm sorry?

16 A Demarco.

17 Q So Demarco told you they  
18 couldn't open up those pallets?

19 A Well, first of all, they don't  
20 do that. And second of all, if I requested  
21 them to do that, they probably would have  
22 done it for us, with the volume of business  
23 we did with them. However, it was -- it  
24 was COVID protocol at the time. You could  
25 not see what was going on your truck. The

1 GILLING  
2 driver backed up. He wasn't allowed in the  
3 warehouse. I mean, I'm sure you remember  
4 the pandemic. You couldn't -- you weren't  
5 just walking around into warehouses. It  
6 just didn't happen.

7 Q When you state it was COVID  
8 protocol, where did that protocol come  
9 from?

10 A From our logistics carrier.  
11 And it would be -- and the same protocol  
12 would have been from the warehouse, the 3PL  
13 that Kitchen Winners and Adorama were  
14 storing these gloves at. They would have  
15 had the same protocol.

16 Q Did they tell you that  
17 protocol?

18 A It was the same protocol that  
19 Demarco was -- and this all came about  
20 When the Adorama and Kitchen Winners put  
21 the undocumented fake LevMed gloves on our  
22 trucks to -- this is when it really had  
23 focus on what the protocol was and what was  
24 going on. Because it was initially denied  
25 by Adorama and Kitchen Winners that they

1 GILLING

2 did that to us, and then as that onion  
3 peeled, they -- they 100 percent did it to  
4 us, and -- and --

5 Q Am I correct in understanding  
6 that Rock Fintek hired Demarco?

7 A Correct.

8 Q Demarco acting on behalf of  
9 Rock Fintek when it picked up the gloves,  
10 correct?

11 MR. RAKHUNOV: Objection.

12 A I don't -- they're just at --  
13 they're a logistics company.

14 Q Okay. And again, if you had  
15 asked them to inspect the gloves when you  
16 picked them up, would you have done it?

17 MR. RAKHUNOV: Objection.

18 A No. It was -- I'll tell you  
19 again. COVID did not allow for any of that  
20 to happen. Our truck drivers couldn't see  
21 what was on their truck. And I'll  
22 reiterate it again. This will be the  
23 fourth time I'm reiterating it. The trucks  
24 got loaded by the 3PL that Adorama and  
25 Kitchen Winners was use -- were using.

1 GILLING

2 They got put onto the truck by those people  
3 with our truck drivers sitting in the cab  
4 or outside. Then it got sealed. And then  
5 it goes to MedLine, backs up, gets unsealed  
6 by MedLine, and gets unloaded.

7 Q I understand what you're  
8 saying.

9 A So this is why this drew  
10 attention to it as we got shorted multiple  
11 times by Adorama and Kitchen Winners; that  
12 MedLine, with their amazing system of  
13 counting everything off a truck, including  
14 on video camera, and documenting it,  
15 everything that came out. It was after  
16 numerous calls to Hershey Weiner that you  
17 guys are shorting us, and it's all  
18 documented, that we were able to get them  
19 to admit that they were shorting us.

20 Q Yeah, but you're not answering  
21 my question, which is: Who told you that  
22 Demarco could not open up the pallets when  
23 they were picking them up?

24 MR. RAKHUNOV: Objection.

25 Asked and answered.

1 GILLING

2 Q What was the answer? Is there  
3 an individual?

4 A Okay. I'm going to reiterate  
5 again. Demarco, okay, does not inspect  
6 product. They are hired by us per contract  
7 to pick up what we were are contractually  
8 buying. At that time, if I would have  
9 asked them to do that, they would have. I  
10 had no idea that I would have to ask until  
11 Adorama was doing two things; one, shorting  
12 us and, two, putting the wrong thing on a  
13 truck.

14 So there was reasons for us to  
15 ask to have that done. However, Demarco  
16 was not going to do it because COVID-19  
17 didn't allow for it. COVID-19 had very  
18 specific safety restrictions about backing  
19 up the truck, having it loaded and sealed,  
20 and then dropped off.

21 Q Were the COVID-19 restrictions,  
22 were they in writing somewhere?

23 A Probably. I would assume so.  
24 I would -- I would assume they're with -- I  
25 know Demarco would testify this, and I'm

1 GILLING

2 sure Adorama and Kitchen Winners 3PL would  
3 testify to the COVID protocol about  
4 logistics.

5 MR. SPERBER: Well, I'm going  
6 to call for the production of any  
7 writing that Rock Fintek had that  
8 concerned the COVID-19 protocols.

9 A I didn't say writing. I said  
10 would testify. But you can call for that.  
11 That's fine.

12 Q Did Ascension tell you that you  
13 were not permitted to open up the pallets  
14 before delivering them to it?

15 A I didn't -- I didn't deal with  
16 Ascension.

17 Q Who dealt with Ascension?

18 A Resource Group, the buying  
19 group for Ascension hospitals.

20 Q Okay. And did Resource Group  
21 tell you that you were not permitted to  
22 open up the pallets of gloves before  
23 delivering them?

24 A No. Resource Group didn't.  
25 They were the procurement company. It goes

1 GILLING

2 to MedLine. MedLine houses it. Just so --  
3 just so you're clear on how it all works.  
4 It's Ascension's our client. Resource  
5 Group is the buying arm. MedLine is the  
6 storage facility.

7 Q Did either MedLine, Ascension,  
8 or the Resource Group tell you that Rock  
9 Fintek was not permitted to open up the  
10 pallets before delivering them to the  
11 MedLine warehouses?

12 A One hundred percent we were not  
13 allowed to do that.

14 Q Again --

15 A Whether it was told by them or  
16 not, you were not allowed in the warehouse.  
17 You were not allowed in the back of the  
18 truck when they were loading. The truck  
19 was sealed and dropped off, and you were  
20 not allowed in, hence making it impossible  
21 to inspect.

22 So it doesn't need to be told.  
23 It's just a fact of how the protocol was.  
24 You could not inspect.

25 And trust me. I would have



1 GILLING

2 loved to figure out that Adorama/Kitchen  
3 Winners stuffed over half of the gloves on  
4 our trucks as protection, cheaper,  
5 janitor-grade gloves, sooner than we found  
6 out after they were breaking on people's  
7 hands in the hospital arms. I would have  
8 loved to have found that out. They were  
9 breaking on doctors' and nurses' hands, the  
10 glove, the protection glove.

11 Q Did the --

12 A I don't know if we shared all  
13 that, but there was plenty of documentation  
14 on that.

15 Q You mentioned there was a  
16 shortage of gloves from what was being  
17 provided to you by Kitchen Winners; is that  
18 correct?

19 A Restate the question.

20 Q Did you mention that Kitchen  
21 Winners were shorting you gloves?

22 A Yes.

23 Q How do you know that?

24 A Because the bill of lading  
25 would say that this is on the truck and

1 GILLING

2 then it would get counted and that wasn't  
3 on the truck. We were shorted multiple  
4 times and had to take it up with Hershey  
5 Weiner about it, and Hershey Weiner ended  
6 up crediting us for all the gloves, and the  
7 -- all the cartons that they shorted us.

8 Q Who counted --

9 A Hundreds of thousands --  
10 hundreds of thousands of dollars. Hundreds  
11 of thousands of dollars.

12 Q Who counted the number of  
13 gloves that were on each pallet?

14 A MedLine.

15 Q Was Rock Fintek relying upon  
16 MedLine to do that counting on its behalf?

17 A One hundred percent.

18 Q Did MedLine ever, you know,  
19 tell Rock Fintek about what was actually on  
20 the pallet besides the number of gloves?

21 A Correct. No. I mean, they  
22 told us what was on the pallet. Yeah, how  
23 many gloves.

24 Q Did you ever ask MedLine  
25 whether the products on the pallet matched

1 GILLING

2 what you were supposed to be purchasing  
3 under the contract?

4 MR. RAKHUNOV: Objection.

5 A Do you want me to explain the  
6 difference between, you know, the --

7 Q I would like you to answer my  
8 question.

9 MR. RAKHUNOV: Focus on the  
10 question.

11 A Okay. so ask the question.

12 Q Did you ever ask MedLine to  
13 tell you whether the goods that were on the  
14 pallets were the same goods that you  
15 thought you were purchasing?

16 MR. RAKHUNOV: Objection.

17 A Well, we -- well, LevMed gloves  
18 got delivered so that was one of the  
19 problems that came up. They caught that.  
20 And then, secondly, the carton boxes are  
21 very deceptive on what they read. They all  
22 say MedCare across them. But it doesn't  
23 exactly mean that what it says on the side  
24 of the box other than MedCare is what's in  
25 the box.

1 GILLING

2 Q Again, did you ever ask MedLine  
3 to tell you whether the goods that were on  
4 the pallets were the same goods that you  
5 thought you were purchasing?

6 A You couldn't see inside the  
7 cartons. So no. You couldn't see inside.  
8 You could only see the exterior of the box.

9 Q Did the exterior of the box  
10 reveal to you whether the goods --  
11 withdrawn.

12 Could you tell by looking at  
13 the exterior of the box whether the goods  
14 inside were the goods that you thought you  
15 were purchasing?

16 A Multiple different styles of  
17 cartons, boxes.

18 Q Again, did you ever ask MedLine  
19 to look at the gloves you were purchasing  
20 and tell you whether they were the same  
21 goods you thought you were purchasing?

22 A Yes. But you got to -- yes.  
23 Yes, of course.

24 Q Is that request in writing?

25 A Oh, yeah.

1 GILLING

2 MR. SPERBER: I ask for it to  
3 be produced. Thank you.

4 Q Was that request made via  
5 e-mail?

6 A We -- we requested after the  
7 gloves started breaking on everybody's  
8 hands and multiple different boxes were  
9 disclosed, that they do a full audit of  
10 what was in their warehouse.

11 So very detailed instructions  
12 and e-mails going back and forth for the  
13 full audit of the amount of protection  
14 gloves that Adorama/Kitchen Winners put on  
15 their trucks. So yeah, there was very  
16 extensive discussion going back and forth  
17 in writing after the fact of what -- what  
18 Adorama and Kitchen Winners delivered to  
19 us. Very well documented.

20 Q Am I correct in understanding  
21 that Rock Fintek purchased gloves from  
22 both, let's say, JNS and Kitchen Winners  
23 over the course of several months?

24 A Yes. These gloves were bought  
25 over several months.

1 GILLING

2 Q Okay. And during -- over the  
3 course of those months, did Rock Fintek  
4 ever ask MedLine to confirm that the gloves  
5 it was receiving were the gloves that you  
6 thought you were purchasing?

7 MR. RAKHUNOV: Objection.

8 A Restate that again?

9 Q Over the course of those  
10 months --

11 A What months? I don't know what  
12 months you're talking about.

13 Q Over the course of the months  
14 that Rock Fintek was purchasing gloves from  
15 the defendant in this action, did Rock  
16 Fintek ask MedLine to inform it as to  
17 whether the gloves it was receiving were  
18 the gloves that Rock Fintek thought it was  
19 purchasing?

20 A No. It wasn't until they were  
21 breaking on people's hands in the hospital.

22 Q And at that time you did ask  
23 them to check?

24 A Yes.

25 Q And they did check?

1 GILLING

2 A They did check, yes. Did a  
3 full audit, and we had over half of the  
4 gloves were, you know, inferior protection  
5 gloves.

6 Q If you look at paragraph 56,  
7 which says that at all pertinent times when  
8 Stern, Adorama, and Kitchen Winners were  
9 delivering nonconforming fraudulent product  
10 to Rock Fintek, either under the SPA or  
11 under the one-off transactions, Adorama,  
12 Kitchen Winners, and their constituents  
13 were in routine contact with Stern about  
14 the transactions and coordinated their  
15 intentional effort to provide fraudulent  
16 products to Rock Fintek.

17 Do you see that paragraph?

18 A Yes.

19 Q Okay.

20 A I do.

21 Q Do you have any personal  
22 knowledge to support that assertion?

23 A Yeah. Yes.

24 Q How do you personally know that  
25 these individuals or groups were

1 GILLING

2 coordinating with one another?

3 A Well, Stern was -- Stern was  
4 very vocal that he buys -- you know,  
5 Kitchen Winners and Adorama have the  
6 contract for all glove sales of MedCare in  
7 the United States. So he was buying,  
8 either working with or buying directly from  
9 Adorama/Kitchen Winners.

10 So he was trying to make his  
11 margin and really get as much business as  
12 he could from us and marking it up and  
13 making margin on top of his association  
14 with Kitchen Winners and Adorama. He, was  
15 very vocal about that.

16 Secondly, in talking about  
17 fraudulent products and how deceptive,  
18 Stern along the way says hey, Adorama has  
19 these stickered boxes. They're real --  
20 they just boxed them wrong but they're --  
21 they're real examination gloves and it was  
22 just a boxing thing, and will you take them  
23 and, you know, I'll give you a great deal  
24 and I'll sell them to you for, you know,  
25 seven bucks a box. And I said absolutely



1 GILLING

2 not. You know, our client cannot take  
3 anything other than examination gloves. We  
4 can't take any stickered thing that would  
5 tarnish our reputation. We just were not  
6 interested.

7 He said well, you know, it's  
8 the same glove and gave me a whole song and  
9 dance. And I said absolutely not. We're  
10 not buying that.

11 Well, as it turns out, all of  
12 those stickered gloves ended up, you know,  
13 fraudulently being put, after they were  
14 told not to, being put on trucks. We  
15 couldn't see them; sealed, delivered,  
16 racked, and bought by us and delivered to  
17 our client.

18 So that answers that -- that  
19 question I think very clearly of that.

20 Q Do you have any documents  
21 showing that Adorama was in routine contact  
22 with Stern?

23 A No. Just him in discussing it  
24 with me.

25 Q Do you have any documents

1 GILLING

2 showing that Kitchen Winners was in routine  
3 contact with Stern?

4 A I think there are documents  
5 that are bill of lading that Stern gave us  
6 along the way that has Adorama or Kitchen  
7 Winners at the top of it that he was  
8 reselling, so I have seen documents that --  
9 that Joel Stern and JNS were selling that  
10 Kitchen Winners was on the either the bill  
11 of lading or -- or on the 3PL document from  
12 when we picked up.

13 Q But do you have anything to  
14 show that they were in routine contact with  
15 one another?

16 A Well, other than that document  
17 which shows they're in contact with each  
18 other and Joel Stern saying it, no. But  
19 that document would point very much so that  
20 they were buying from -- Joel Stern was  
21 working with Kitchen Winners and Adorama.

22 And, secondly, Kitchen Winners  
23 and Adorama held themselves out as the sole  
24 provider of these gloves in the United  
25 States, so there was no getting around any

1 GILLING

2 -- the only way you would get these gloves  
3 is going through them.

4 Q Does that mean they were in  
5 routine contact with Stern?

6 MR. RAKHUNOV: Objection.

7 A Joel Stern told me he was in  
8 routine contact with them.

9 Q Did he tell you that orally or  
10 by text or by e-mail?

11 A Joe Stern will openly discuss  
12 this because it happened numerous times.  
13 That's how he was getting gloves. From  
14 Adorama and Kitchen Winners, because he  
15 told me. He told me this. It's the only  
16 place he got them from anyway. There's no  
17 -- there's no getting around this other  
18 than the conversations happened. There are  
19 documents that he bought them from there,  
20 and that's that.

21 I feel like we're talking in  
22 circles.

23 MR. RAKHUNOV: Wait for a  
24 question.

25 THE WITNESS: All right.

1 GILLING

2 Q Only because you're not  
3 answering the questions.

4 You mentioned earlier you had a  
5 conversation, you know, a phone call and  
6 there was someone from Adorama on that  
7 call. Do you know if that was Joseph  
8 Mendlowitz, Yuchi Mendlowitz, Kascas  
9 Mendlowitz, Moshe? Do you know who was on  
10 the call from Adorama?

11 A Joseph Mendlowitz.

12 Q Take a look at paragraph 44.  
13 You say that Rock Fintek purchased gloves  
14 through Stern and JNS which Stern and JNS  
15 represented the --

16 A If you highlight it as you're  
17 reading, it helps.

18 Q Examination gloves that  
19 according to Stern were sourced, quote,  
20 through my people at Adorama.

21 Do you see where that is?

22 A Yes. Joel Stern would have  
23 said that, yes.

24 Q Was that in writing?

25 A No. It's a quote, so it's --

1 GILLING

2 it's my people and that's how he would  
3 state it. It would be on bill of lading  
4 and other documents.

5 Q He said that to you?

6 A Yes. Oh, yeah. Numerous  
7 times.

8 Q You spoke with Stern on the  
9 phone numerous names?

10 A Oh, numerous times.

11 Q Did you speak with Hershey  
12 Weiner on the phone many times?

13 A Yes. Sure did, unfortunately.

14 Q Taking a look at paragraph 54,  
15 Rock Fintek asserts that Stern took  
16 affirmative steps to fraudulently conceal  
17 the fact that he was shipping fraudulent  
18 gloves to Rock Fintek by placing stickers  
19 bearing the word, quote, examination, end  
20 quote, on top of the protection gloves to  
21 cover up and conceal the true nature of  
22 those gloves.

23 Do you see where I am?

24 A Yes.

25 Q How do you know that Stern is

1 GILLING

2 the one who placed the stickers on those  
3 boxes?

4 A Because we went and did a --  
5 after the gloves were breaking in the  
6 hospital and this whole thing blew up,  
7 Tommy Kato and I went around to multiple  
8 warehouses to inspect what we had purchased  
9 and were allowed into the facilities at  
10 MedLine at that time.

11 There were multiple pallets all  
12 over the place that have Kitchen Winners --  
13 when they wrap these things, they shrink  
14 wrap them and in the shrink wrap is --  
15 identifies where they came from. So there  
16 was pallets all over the place that say  
17 Kitchen Winners wrapped in cellophane and  
18 there's pallets all over the place 0that  
19 say JNS, Joel Stern, different things like  
20 that.

21 Those pallets identified as  
22 delivered by Joel Stern were -- were  
23 showing the stickered examination boxes.  
24 So I witnessed it. I pulled the sticker  
25 off. I saw the true fraud concealment of

1 GILLING

2 this with my own eyes. We have those boxes  
3 in the -- and so yeah. That's --

4 Q How were you allowed into the  
5 MedCare warehouse during COVID?

6 A We were at MedLine.

7 Q MedLine, I'm sorry.

8 A Yeah. This was -- this was in  
9 mid -- this was after -- this was about 30  
10 days after all the gloves were delivered to  
11 our client that this happened.

12 Q So how were you allowed into  
13 the warehouse during COVID? I thought  
14 there were restrictions.

15 A There are restrictions, a  
16 hundred percent. So we had to go -- we  
17 went -- when this became a massive issue,  
18 we got approval to go in with masks and,  
19 you know, protocol to do the examination.

20 Q So somebody let you into the  
21 warehouse when you wanted to go in?

22 MR. RAKHUNOV: Objection.

23 A I just said that. I went to  
24 the warehouse to examine it, yes.

25 Q Had you ever made a prior

1 GILLING

2 request to visit the MedLine warehouses?

3 A I had no reason to do that. I  
4 did have a reason during the LevMed issue,  
5 but Adorama and Kitchen Winners ended up  
6 accepting responsibility for that so I  
7 didn't have to do that. However, upon my  
8 inspections later, where we got approval  
9 once the bomb went off that these gloves  
10 were breaking on everybody's hands, I did  
11 see the LevMed gloves in the warehouse as  
12 well.

13 Q So the answer is you had never  
14 previously requested to visit the MedLine  
15 warehouse, correct?

16 A I requested to go into the  
17 MedLine warehouse, yes, to inspect, after  
18 the gloves were breaking in the hospital.  
19 We had a problem.

20 Q Before that occasion, you never  
21 asked for permission to visit a MedLine  
22 warehouse, correct?

23 A No. I just said I asked for  
24 permission to go in and look at the gloves  
25 when they were breaking on everybody's



1 GILLING

2 hands.

3 Q Yeah I'm asking before that.

4 Before that occasion, did you ever ask --

5 A Yeah.

6 Q -- to visit the MedLine  
7 warehouse?

8 A When? When? You're -- you're  
9 like --

10 Q Any time during the course of  
11 your transactions with Kitchen Winners,  
12 Adorama, JNS, or Stern.

13 A Correct. I never asked to go  
14 in to see them until they started breaking  
15 in the hospital. And then they were  
16 showing us they have protection gloves.  
17 And we said we didn't buy protection  
18 gloves. And that warranted us having to go  
19 into the warehouses to look and see what  
20 they put on our trucks.

21 Q Did you --

22 A Yes.

23 Q -- personally see Stern placing  
24 stickers on the boxes?

25 A No, but Stern told me he had

1 GILLING

2 stickered boxes, and they had stickered  
3 them over, and we wouldn't buy them. So I  
4 didn't see him do it. He told my he had  
5 them. And we wouldn't buy them.

6 Q Okay. How do you know that the  
7 stickers weren't placed on the boxes by the  
8 manufacturer?

9 A I don't know that.

10 Q So as far as you know --

11 A Actually, no. I do know that.  
12 He said they arrived here and they were  
13 packaged wrong and they had to get stickers  
14 on them. That's what he told me. So I  
15 don't know who did it. I mean, I don't  
16 know if Joel did it himself. I just know  
17 he was in possession of those.

18 Q Did he tell you that in  
19 writing?

20 A It's possible. He might have  
21 sent what the boxes looked like when he was  
22 trying to get me to buy them. It's  
23 possible, but I don't know. I mean, I  
24 would ask -- I don't see if that's in  
25 production, but I don't know. We weren't

1 GILLING

2 buying them.

3 THE REPORTER: Off the record.

4 (Whereupon, an off-the-record  
5 discussion was held.)

6 Q If you take a look at paragraph  
7 60, it says that Stern, JNS, Adorama, and  
8 Kitchen Winners and their constituents  
9 knew, because Rock Fintek repeatedly told  
10 them, agents of the sellers loaded sealed  
11 pallets of gloves directly onto trucks  
12 provided by Rock Fintek to be delivered  
13 directly to Rock Fintek's hospital clients,  
14 warehouses, for use by medical  
15 professionals.

16 Again, did Rock Fintek tell  
17 them this in writing or only orally?

18 A It's in our contract of buying  
19 examination gloves which was for use in the  
20 medical facility, and it was discussed  
21 numerous times verbally.

22 Q Verbally, sir?

23 A Both. It's in the contract and  
24 both verbally. Both in the contract and  
25 verbally.

1 GILLING

2 Q What was the procedure you had  
3 to use to get access to the MedLine  
4 warehouse?

5 A We -- we navigated through  
6 Resource Group, our buying group, to get  
7 entry after the problem happened, after the  
8 gloves were breaking in the hospital  
9 setting. So we used Resource Group to help  
10 us get in there.

11 Q Did MedLine ask you for  
12 information before letting you in?

13 MR. RAKHUNOV: Objection.

14 A For I.D.?

15 Q For anything.

16 A More specific.

17 Q Did MedLine tell you you had to  
18 comply with certain COVID protocols?

19 A Yes. When you walk into a  
20 MedLine facility, you get buzzed in.  
21 And MedLine facilities aren't for public or  
22 anybody to go into. It's a distribution  
23 room so it's for lift truck drivers and  
24 packaging. It's a big -- these warehouses  
25 are massive.

1 GILLING

2 So you -- you get buzzed in.  
3 You sign in. And so there is a  
4 documentation of sign-in. You get issued a  
5 yellow -- well, you can't go in without a  
6 mask on. You get issued a yellow, you  
7 know, protection thing, goggles. And you  
8 wait for somebody to show you through the  
9 warehouse. And you walk -- you walk into  
10 the warehouse with a representative of  
11 MedLine.

12 And when we had the problems  
13 happen in the hospital, we set up to go to  
14 multiple locations over the series of a few  
15 days. And they pulled pallets down from  
16 the slots and put them on display so we  
17 could inspect. And then we also were able  
18 to, with a MedLine representative, walk the  
19 warehouses to look at the gloves. Which  
20 we, you know, we documented very well.

21 Q So aside from wearing a mask,  
22 were there any other COVID-specific  
23 requirements they had for you?

24 A I don't know if they had social  
25 distancing or any of that. I don't -- I

1 GILLING

2 don't recall. But it was at that time, you  
3 know, each month that went by with the  
4 pandemic, you know, things got a little  
5 more lax. So it was a little more lax at  
6 that point.

7 Q If you take a look at paragraph  
8 63 of the counterclaim, it says as a  
9 condition of entering into the SPA, Rock  
10 Fintek required Adorama to be a party to  
11 the SPA --

12 A Can you highlight it again?  
13 I'm trying to find it. Okay.

14 Q And guarantee the performance  
15 of Kitchen Winners as under the SPA.

16 Do you see where that is?

17 A Yes. Yes.

18 Q Is this request in writing  
19 somewhere?

20 A Yes. It's a contract that we  
21 signed.

22 Q Besides the contract, were  
23 there any contract negotiations done  
24 beforehand where it was put in writing?

25 A There would have been drafts.

1 GILLING

2 There were multiple drafts of that SPA so  
3 there was multiple correspondence and  
4 drafts going back and forth. And then, you  
5 know, a conversation with Adorama, Joseph  
6 Mendlowitz, and all parties on there.

7 Q Now, were you involved in  
8 negotiating the SPA?

9 A Other than input with Bonnie, I  
10 wasn't the lead on negotiating that. We  
11 were -- we were working with Hershey and  
12 Mendlowitz, and Mendel was -- Mendel was a  
13 smaller part of that. He was more the  
14 introduction to it.

15 And we worked with Arik Maimon,  
16 too, as kind of an interface between us and  
17 Adorama.

18 Q Who at Rock Fintek was  
19 responsible for negotiating the SPA?

20 A Thomas Kato.

21 Q Did Rock Fintek ever ask that  
22 Adorama give a personal guarantee of some  
23 sort or give a written guarantee of the  
24 performance of Kitchen Winners?

25 MR. RAKHUNOV: Objection.

1 GILLING

2 A Adorama was the party that  
3 signed the contract. We did -- we did an  
4 agreement with Adorama, so --

5 Q Let me --

6 A Kitchen Winners -- Kitchen  
7 Winners is a party of it, so.

8 Q Do you have knowledge of the  
9 negotiations for the SPA or should I direct  
10 those questions to Thomas Kato?

11 A You can ask Thomas Kato, but I  
12 was on a lot of those phone calls.

13 Q On those phone calls -- was  
14 negotiation done entirely by phone call or  
15 was it also done by e-mail?

16 A I don't know.

17 Q Were you on any e-mails  
18 concerning negotiation of the contract?

19 A I have no idea.

20 Q Are you aware of any e-mails in  
21 which Rock Fintek expressed its need for  
22 Adorama to guarantee the performance of  
23 Kitchen Winners under the SPA?

24 It's a yes or no?

25 A Wait. Repeat the question.



1 GILLING

2 Q Were you on any e-mails in  
3 which Rock Fintek expressed its need for  
4 Adorama to guarantee the performance of  
5 Kitchen Winners under the SPA?

6 MR. RAKHUNOV: Objection.

7 A If I saw -- if I saw an e-mail,  
8 I could confirm it, but I don't know.

9 Q Is it your assertion that Rock  
10 Fintek required Adorama to be a guarantor  
11 of Kitchen Winners' performance, was that  
12 entirely based upon formal conversations  
13 that you were a party to?

14 MR. RAKHUNOV: Objection.

15 A I don't -- our contract is with  
16 Adorama and Kitchen Winners, so I don't --  
17 I'm not -- there was nothing -- let me  
18 answer your question.

19 There was nothing that --  
20 guaranteeing the performance of Kitchen  
21 Winners. There's two parties to that -- to  
22 our agreement, and they are both separate.  
23 Adorama and Kitchen Winners are both, you  
24 know, responsible parties.

25 So I don't know -- Adorama

1 GILLING  
2 signed the contract and we made all  
3 payments to them. Because what we could  
4 gather from our due diligence was, you  
5 know, they were a profitable company and  
6 had assets, and -- and we could look at  
7 financial statements online and see that  
8 they were selling and -- and could be a  
9 worthy party of guaranteeing it.

10 That's -- it was a simple  
11 business move. And, you know, that's when  
12 all this information came out about Kitchen  
13 Winners and Adorama are interchangeable and  
14 one. That was all discussed on phone calls  
15 --

16 Q Paragraph --

17 A -- held itself out as part of  
18 Adorama.

19 Q Paragraph 73 says that as a  
20 condition of entering into the SPA, Rock  
21 Fintek required that Adorama guarantee its  
22 performance --

23 A Yeah, so --

24 Q I would imagine that is not  
25 what is in the SPA itself, but the

1 GILLING

2 negotiations leading up to it. So  
3 regarding those negotiations, are you  
4 referring solely to oral communications?

5 A I don't know. There -- there  
6 -- certainly I was party to that being  
7 orally, and there very likely could be  
8 correspondence, e-mails, about this as  
9 well, because it was -- it was very  
10 well documented that that had to happen.

11 Q So when you say there were oral  
12 communications, who was on those  
13 communications? Who was party to those  
14 discussions where Rock Fintek said that it  
15 needed to have Adorama guarantee the  
16 performance of Kitchen Winners?

17 A Hershey Weiner, Tommy Kato,  
18 myself, likely Arik Maimon would have been  
19 on those calls.

20 Q That's it?

21 A Maybe Mendel. You know, I --

22 Q So I just want to -- if I can  
23 just follow up on that.

24 A I was always confused whether  
25 Hershey Weiner and Joe -- I don't know --

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GILLING

there was all these different names of who they were. I thought they were two people. I don't even know who Kitchen Winners really is, other than Hershey Weiner and Adorama. Like, I don't -- because I have seen different names along the way.

Q No one at Rock Fintek related that requirement to anyone at Adorama itself, correct?

A No. We did. We -- Adorama signed the contract, so --

Q Again, I'm talking about before the contract.

A Yeah, before the contract, we -- that's why we had a phone call with Mendlowitz to make sure, you know, it was real. You know, and that phone call could have happened -- there could have been multiple phone calls because I know Arik was working on it as well, and Tommy was working on it, and then I would have been privy to at least one phone call for sure, but none of it's on it. But, you know, Tommy can speak for himself. He might have

1 GILLING

2 been on multiple calls.

3 Q Aside from the one phone call  
4 you had -- let me rephrase that.

5 On the one phone call you had  
6 that Adorama was party to, what was  
7 discussed?

8 A We would have just discussed  
9 doing a deal to buy gloves.

10 Q Would you have discussed the  
11 terms of that deal?

12 A Very likely.

13 Q Okay. Do you specifically  
14 recall telling Mendlowitz that Rock Fintek  
15 needed Adorama to guarantee the performance  
16 of Kitchen Winners with the SPA?

17 A I don't know if I would have  
18 said it. Tommy Kato would have said it.  
19 Tommy is a very seasoned negotiator of  
20 contracts. Very specific that we had --

21 Q Do you --

22 A -- we had --

23 Q Sorry. How do you know that  
24 Mendlowitz was actually on that phone call?  
25 Maybe -- maybe someone got on there and

1 GILLING

2 claimed they were Mendlowitz.

3 MR. RAKHUNOV: Objection.

4 A I don't know if anybody -- at  
5 this point, the fraud that was imposed on  
6 us, it could have been anybody on these  
7 phone calls. I don't know. All I know is  
8 we bought gloves that weren't right, and we  
9 bought it from these guys and sent checks  
10 to them. Or wired money, rather.

11 I think that's preposterous  
12 that you would say such a thing.

13 Q And again, the only place this  
14 is in writing is in the SPA. Is that  
15 correct?

16 A What's in writing?

17 Q That Rock Fintek was requiring  
18 that Adorama guarantee the performance of  
19 Kitchen Winners was the SPA?

20 A When you say writing, are you  
21 talking about like WhatsApp messages and  
22 communications to do this deal?

23 Q Anything. E-mails, WhatsApp --

24 A I don't know. I don't know. I  
25 would speculate it's in writing. Because

1 GILLING

2 we were -- it was the biggest part of the  
3 contract. So it was discussed repeatedly  
4 amongst Tommy, myself, Arik, Hershey  
5 Weiner. We weren't going to do -- Kitchen  
6 Winners was, you know, was a nobody as far  
7 as being able to accept, you know, that  
8 kind of money, you know, this sort of deal.  
9 And so, you know, everybody did. This was  
10 discussed multiple times.

11 Q Do you --

12 A We weren't going to sign a  
13 contract with Kitchen Winners without a  
14 collectible party. That's why it didn't  
15 happen. They wouldn't -- they wouldn't  
16 have been able to do the deal to get money  
17 from us until they had somebody that we  
18 felt comfortable was collectible.

19 Q Take a look at paragraph 79.  
20 Just read it over please.

21 Let me know when you're done.

22 A Okay.

23 Q In this paragraph you're  
24 asserting that Adorama, not just Kitchen  
25 Winners, was trying to extort money from

1 GILLING

2 Rock Fintek, correct?

3 A This paragraph is accurate.

4 Q Okay.

5 A Very accurate.

6 Q In what way did Adorama try to  
7 extort money from Rock Fintek?

8 A Adorama and Kitchen Winners  
9 were soliciting us for another contract for  
10 two million boxes and wouldn't pay us our  
11 rebate. They --

12 Q Who at Adorama -- who at  
13 Adorama made those decisions?

14 A Well, we signed a contract with  
15 Adorama and Kitchen Winners being  
16 represented by -- interchangeably by both,  
17 so.

18 Q You just said that they were  
19 trying to solicit you to enter into a new  
20 contract. Who at Adorama made the  
21 solicitation?

22 A I don't -- I don't know. It  
23 was -- it was very clear, this absurd  
24 proposal.

25 Q You said it was very clear. So



1 GILLING

2 if it was very clear, who at Adorama were  
3 you talking with at that time?

4 A I didn't talk with anybody.  
5 Thomas Kato can relay on this. I did talk  
6 to Hershey Weiner about this along the way.

7 Q So you have no personal  
8 knowledge of anything done by Adorama  
9 itself in regards to the allegations in  
10 paragraph 79, correct?

11 A I don't -- okay, I'm going to  
12 -- I really don't know who Adorama is, what  
13 you're referring to as Adorama. Adorama  
14 and Kitchen Winners are a party together in  
15 all my negotiations and dealings with them.

16 Q Okay.

17 A Okay. So when you're talking  
18 about Adorama, I assume that that's who we  
19 bought all the gloves from. We bought them  
20 and sent checks to Adorama. So when this  
21 was being negotiated again, Adorama would  
22 have been part of that negotiation. Who  
23 specifically, I don't know. But it was all  
24 part of the same thing. We did a deal with  
25 Adorama to buy gloves, and they were coming

1 GILLING

2 back again -- wouldn't give us the rebate  
3 until they were extorting us to buy another  
4 two million gloves. All part of the same  
5 process.

6 Q Which individuals were you  
7 dealing with in regards to the allegations  
8 in paragraph 79?

9 A I don't know. Thomas Kato was  
10 the lead on that.

11 Q Did you have any personal  
12 knowledge yourself as to the individuals  
13 who were making or doing the -- doing the  
14 things alleged in paragraph 79?

15 MR. RAKHUNOV: Objection.

16 A Yeah; repeat the question  
17 again.

18 Q Do you have any personal  
19 knowledge as to which individuals were  
20 doing the things alleged in paragraph 79?

21 A Well, I know I had  
22 conversations with Hershey Weiner about it.  
23 We were on phone calls with him. He would  
24 have been the lead on this.

25 Q Aside from Hershey Weiner,

1 GILLING

2 which other individuals were doing the  
3 things alleged in paragraph 79?

4 A I don't know.

5 Q Anyone else?

6 A I don't know. I'm sure there  
7 was other parties, but I don't know.

8 Q Take a look at paragraph 80.  
9 In paragraph 80, Rock Fintek alleges that  
10 Adorama and Kitchen Winners unilaterally  
11 invoiced Rock Fintek for several hundred  
12 thousand dollars of previously undisclosed  
13 and unagreed-upon expenses. Do you see  
14 that?

15 A Yes.

16 Q Again, is there a document from  
17 Adorama invoicing Rock Fintek for this  
18 money?

19 A I'm not sure.

20 Be mindful. We signed a deal  
21 with Adorama. Our contract was Adorama.  
22 Kitchen Winners was a party with them in  
23 the contract. They were the deliverer in  
24 getting these gloves. They were working in  
25 conjunction with each other and held

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GILLING

themselves out as working with each other  
as one party.

So when these sort of things  
come about in this -- that you're reading  
to me, you're -- it's an attempt to  
separate them. In my mind, they weren't  
separated. It was one party working in  
unison with us on these gloves.

So when we got these  
unagreed-upon expenses for insurance and,  
you know, frivolous bills for freight, they  
had us over a barrel because our hospital  
needed gloves and they were jamming us with  
unagreed-to expenses and extorting us for  
delivering the rest of the gloves.

Q I just want to follow up.  
We'll take a break in one second for lunch.  
I just want to follow up on one thing you  
just said there, which is they held  
themselves out as one company. Is that  
what you just said?

A Yeah, they -- no, they didn't  
hold themselves -- in my mind, in entering  
into the contract, Kitchen Winners a3nd

1 GILLING

2 Adorama were one. They were one party to  
3 the contract. Even though they're listed  
4 as Adorama and Kitchen Winners separately,  
5 they held themselves out as working in  
6 unison together.

7 So when I say unison, I'm not  
8 -- I'm not saying they're one company on  
9 paper. I'm saying they worked in union  
10 with each other on this whole agreement.

11 Q You previously testified that  
12 you had a total of one conversation with  
13 Defendant Adorama and no other --

14 MR. RAKHUNOV: Objection.

15 Q -- whatsoever, correct?

16 MR. RAKHUNOV: Objection.

17 A We have a contract --

18 Q I'm asking about your  
19 communications, not the contract.

20 A I'm going to answer -- I'm  
21 going to answer it the way I want to answer  
22 it. You're asking me a question. Our  
23 contract was Adorama, and Kitchen Winners  
24 being a party. So all -- all things  
25 associated with that contract fall on

1 GILLING

2 Adorama. So regardless of if I had any  
3 type of conversation with Adorama after the  
4 fact, Kitchen Winners was doing all the  
5 legwork for Adorama.

6 Q State for me all facts that you  
7 are relying upon to assert Adorama held  
8 itself out as being the same company as  
9 Kitchen Winners.

10 A I -- I didn't say that. I  
11 recanted and said they worked in unison  
12 together and Kitchen Winners held  
13 themselves out as working in unison  
14 together with Adorama.

15 MR. SPERBER: Okay. Let's take  
16 a break for lunch.

17 (Whereupon, a lunch recess was  
18 taken.)

19 Q Mr. Gilling, are you familiar  
20 with someone by the name of Arik Maimon?

21 A Yes.

22 Q What was Mr. Maimon's role in  
23 regards to gloves that Rock Fintek was  
24 purchasing?

25 A He was brought in to help

1 GILLING

2 facilitate a deal with Adorama/Kitchen  
3 Winners.

4 Q Who brought him in?

5 A Thomas Kato.

6 Q Are you familiar with a letter  
7 of intent between Rock Fintek and Arik  
8 Maimon?

9 A If I see it, possibly.

10 Q I'm going to introduce a second  
11 exhibit.

12 Mr. Gilling, can you see a  
13 document in front of you?

14 A Yes.

15 MR. SPERBER: I'm marking this  
16 document as Plaintiff's Exhibit 2.

17 (Whereupon, a letter of intent  
18 was marked as Plaintiff's Exhibit 2  
19 for identification, as of this  
20 date, by the reporter.)

21 Q Is this a document that you  
22 recognize? I'll scroll through it so you  
23 can see the whole thing.

24 Is this a document that you  
25 recognize?

1 GILLING

2 A I don't recognize it, but  
3 that's my signature on it.

4 Q On page 2, that is your  
5 signature?

6 A Yeah.

7 Q Okay. The document at the top  
8 is labeled a letter of intent. Do you see  
9 that?

10 A Yes.

11 Q Do you have any recollection of  
12 signing a letter of intent on behalf of  
13 Rock Fintek with Mr. Maimon?

14 A I don't remember signing this  
15 document.

16 Q Do you remember discussing it  
17 with Mr. Maimon?

18 A I want to -- I don't -- not  
19 necessarily discussed it with Mr. Maimon.  
20 I would have discussed it with Tommy Kato.

21 Q Do you have any reason to doubt  
22 that you signed this document?

23 A I do not.

24 Q If you look at paragraph 1, it  
25 says that Rock Fintek desires to purchase



1 GILLING

2 up to one million boxes of powder-free  
3 nitrile medical gloves from Kitchen Winners  
4 New York, Inc., an abbreviation of KWNY,  
5 slash, Adorama for import to the U.S.A.,  
6 with the option to purchase a second lot of  
7 one million boxes of same. Do you see  
8 that?

9 A Are you asking me?

10 Q Yeah, I'm asking you. Do you  
11 see where I am?

12 A Yeah.

13 Q And if you take a look at  
14 paragraph 3, it appears to be laying out  
15 Adorama's role in the transaction. The end  
16 explains that Adorama is financing these  
17 transactions for Kitchen Winners New York.  
18 Do you see that?

19 A Yes.

20 Q Was that your understanding of  
21 Adorama's role in this transaction?

22 A No.

23 Q If that's the case, why did you  
24 sign this document?

25 A I didn't draft this document.

1 GILLING

2 Q But you signed it, correct?

3 A Yes. But I didn't draft it.

4 It was a commission thing for our -- it  
5 was -- there's -- it -- it's irrelevant to  
6 me.

7 Q This is a document you saw at  
8 some point in time, though, correct?

9 MR. RAKHUNOV: Objection.

10 A I'm not recognizing this  
11 document.

12 Q Okay.

13 A But that is my signature.

14 Q Okay.

15 A That signature is on the second  
16 page, so --

17 Q Yeah.

18 A So I don't know if this is all  
19 part of the same thing, but that's my  
20 signature that is on the second page of a  
21 document I don't recognize.

22 Q Are you in the habit of signing  
23 documents that you don't read?

24 MR. RAKHUNOV: Objection.

25 A I am not in the habit of

1 GILLING

2 signing documents that I don't read.

3 Q Are you in the habit of signing  
4 documents that you think incorrectly  
5 establish the terms of a deal that you are  
6 entering into?

7 MR. RAKHUNOV: Objection.

8 A Those aren't really terms of  
9 the deal. The terms of the deal are what  
10 we're going to pay them in commission. The  
11 other are nonsense items that really don't  
12 pertain the accuracy to it.

13 Q Are you in the habit of signing  
14 documents that contain -- that incorrectly  
15 describe the nature of --

16 A This is not --

17 MR. RAKHUNOV: Let him finish  
18 the question. Listen to the  
19 question.

20 Q Are you in the habit of signing  
21 documents that incorrectly describe the  
22 nature of a transaction that you're  
23 entering into?

24 A I'm not in the habit.

25 Q All right. We'll --

1 GILLING

2 A I'm not saying I signed that  
3 document either. I'm saying it shows on  
4 the second page I signed a document, but --

5 Q Okay.

6 A -- I don't -- I don't recognize  
7 that document. That is my signature for  
8 certain.

9 Q Do you think someone might have  
10 forged your signature?

11 A No. That's my signature.

12 Q Is it possible Thomas Kato gave  
13 you this document to sign on behalf of Rock  
14 Fintek?

15 A Well, I don't -- no. I think  
16 Arik would have drafted this document.  
17 Tommy would have seen it. And Tommy would  
18 have authorized the signature would be the  
19 standard protocol.

20 Q Okay. All right. Let me move  
21 on from here.

22 A But that's an agreement between  
23 Arik and Rock Fintek. Not with you guys.

24 Can you go back? I would like  
25 to see the date on that.

1 GILLING

2 Q Sure.

3 A What is the date on that  
4 document?

5 Q Can you see it?

6 A What's it signed? When did I  
7 sign it, April 1?

8 Q That says April 1, 2021.

9 A Yeah. What's the signature?

10 Q And same.

11 A Yeah. No. So there's no real  
12 -- okay. I don't know when that was  
13 signed, but okay. And one more -- well,  
14 never mind. I'll know the answer.

15 Q I want to show you another  
16 document.

17 Mr. Gilling, I'm going to be  
18 showing you what I'm going to be marking as  
19 Plaintiff's Exhibit 3. This appears to be  
20 an e-mail. It says from Bradley Gilling,  
21 an e-mail address --

22 A Yep.

23 Q -- bd@RockFintek.com. Is that  
24 your e-mail address?

25 A Yes.

1 GILLING

2 (Whereupon, a e-mail was marked  
3 as Plaintiff's Exhibit 3 for  
4 identification, as of this date, by  
5 the reporter.)

6 Q Okay. And it's to Dewayne  
7 Rader at the Resource Group. Do you know  
8 who that is?

9 A Yes.

10 Q Who is it?

11 MR. RAKHUNOV: And I'm sorry,  
12 Counsel. Can you just put the  
13 Bates number on the record so we --

14 MR. SPERBER: Sure. This is  
15 the document Bate stamped RF\_000698  
16 through RF\_ 000717.

17 Q Who is Mr. Dewayne Rader?

18 A Works for the Resource Group.

19 Q What was his role there?

20 A I don't -- I think he was  
21 the -- I don't know. I don't know what his  
22 actual title is.

23 Q The Resource Group, what is the  
24 Resource Group?

25 A They're the buying arm for

1 GILLING

2 Ascension.

3 Q Okay.

4 A They're the -- yeah, they do  
5 the buying for Ascension Hospital.

6 Q The e-mail also says it's  
7 directed towards Michael Elstro. Do you  
8 know who that is?

9 A Part of the Resource Group  
10 buyer.

11 Q He was a buyer there?

12 A No. He is another executive at  
13 the Resource Group.

14 Q And it's also directed to Scott  
15 Henderson.

16 A Yep.

17 Q Do you know who that was?

18 A He's another -- he's another  
19 one of the gentlemen at the Resource Group  
20 that we deal with.

21 Q Vincent Moccio?

22 A He was in charge of logistics  
23 and procurement and authenticating product.

24 Q And the subject line here is  
25 MedCare gloves. Do you have any

1 GILLING

2 recollection -- I'll scroll down - of  
3 sending this e-mail?

4 A Wait. Say it again?

5 Q Do you have any recollection of  
6 sending this e-mail?

7 A I would have to read it. Okay.

8 Q Again, do you have any  
9 recollection of sending this e-mail?

10 A I would have to see it in its  
11 entirety.

12 Q Sure. I am happy to scroll  
13 through.

14 Let's start with the one here  
15 that ends at RF\_000706. So, again, do you  
16 have any recollection of this e-mail?

17 A Yes, I do.

18 Q Looking at the text on  
19 RF\_000699, it appears you're comparing  
20 certain MedCare gloves with gloves from a  
21 company called Solstice.

22 Is that correct?

23 A I don't know. I'd have to read  
24 the box to verify that.

25 Q Well, it says below is MedLine



1 GILLING

2 Solstice chemo-rated gloves, the MedCare  
3 nitrile glove vs. Solstice nitrile glove,  
4 practically identical other than color.  
5 Thickness, elasticity, feel, sizing, and  
6 weight all appears identical. Chemo rated  
7 and chemo tested gloves have superior  
8 thickness and protection.

9 A Yeah.

10 Q Did I read that correctly?

11 A Yeah.

12 Q When you wrote this, was this  
13 based on some kind of testing you yourself  
14 did of those gloves?

15 A No. We -- we sent the gloves  
16 out for testing. They all failed, but no.  
17 That was after this.

18 Q When you wrote this, how did  
19 you come to the determination that these  
20 two kinds of gloves were practically  
21 identical?

22 A Jason and I were in his --  
23 Jason and I were in his cube, and he had  
24 these gloves as just gloves he was using at  
25 his desk. I had a box of the MedCare

1 GILLING

2 gloves. And at this point we were both  
3 trying them on. And that glove was very  
4 similar in sheen, in look to the MedCare  
5 gloves.

6 However, I don't know anything  
7 about these MedLine Solstice chemo gloves  
8 other than from a comparison standpoint  
9 when we were trying them on at that time.  
10 They were similar.

11 Q And again, just for the record,  
12 this is dated July 22, 2021.

13 Do you have any recollection of  
14 the context in which you were sending this  
15 e-mail?

16 A The context was I went down to  
17 examine the gloves and on my way out saw  
18 these gloves and sent them a comparison.  
19 We were trying to justify, based on what we  
20 delivered in the reports that Adorama and  
21 Kitchen Winners gave to us, that the gloves  
22 were good. And we were doing our best to  
23 fight off a problem. It was -- as it  
24 snowballed into the gloves being wrong  
25 boxes, wrong make-up, breaking on people's

1 GILLING

2 hands.

3 Q Okay. And so at that time you  
4 personally compared these two different  
5 kind of gloves and concluded they were  
6 practically identical, right?

7 A Yeah, but I don't -- I don't  
8 have any information on those gloves other  
9 than seeing them. They could have been  
10 fake too. I don't know what the gloves  
11 are. I don't even know what was in that  
12 box other than I was doing a comparison  
13 that they were similar.

14 Q All right. You mentioned that  
15 Rock Fintek sent gloves out for testing; is  
16 that right?

17 A Yes.

18 Q Which testing company did Rock  
19 Fintek use?

20 A We used really the company that  
21 everybody used, Akron.

22 Q How many gloves did you test?

23 A I'm not certain. Anywhere from  
24 nine to -- well, eight to 11 different  
25 lots.

1 GILLING

2 Q And when you say "different  
3 lots," is that one glove per lot?

4 A No, just out of a box.

5 Q How many gloves in that box did  
6 the testing company test?

7 A I don't know. You would have  
8 to look at the report, but there is a  
9 standard for doing that. You send the  
10 entire box and then they pull and do it.  
11 They do an assessment of it.

12 Q Is this testing that Rock  
13 Fintek did or that Ascension did?

14 A We did testing. Ascension did  
15 testing too.

16 Q Do you know, did you test  
17 gloves from Kitchen Winners or from Stern?

18 A Both.

19 Q How did you go about choosing  
20 the gloves to test?

21 A Went to the warehouse and  
22 pulled samples and took boxes and sent them  
23 out for inspection.

24 Q Were these protection gloves or  
25 examination gloves?

1 GILLING

2 A Both.

3 Q Is that something you  
4 specifically looked for when you were  
5 choosing gloves to collect for testing?

6 A I was looking for lot numbers.

7 Q What were you looking for with  
8 the lot numbers?

9 A Different lot numbers. We only  
10 got -- we only were delivered so many  
11 different lot numbers. And we had a  
12 spreadsheet on the lot numbers that we got  
13 and we had it verified by MedCare of what  
14 they sent to Kitchen Winners/Adorama.

15 Q Who were you dealing with at  
16 MedCare?

17 A Anna and Yossi.

18 Q Is that Anna Grinvald?

19 A Yep.

20 Q And Yossi, what's his last  
21 name?

22 A I don't know Yossi's last name.  
23 I would think it's Grinvald because that's  
24 -- his mother is -- Anna's his mom.

25 Q So at what point in time did

1 GILLING

2 you reach out to MedCare directly?

3 A We reached out to them when  
4 Hershey Weiner refused to give us reports  
5 on -- on the origin and testing reports  
6 that were promised to us. He was  
7 withholding that information and refused to  
8 give it to us. So we went directly to  
9 MedCare and they gave us all the reports.

10 Q When you said that they were --  
11 these reports were promised to you,  
12 promised to you where?

13 A When we were buying them. When  
14 we were buying the gloves. We needed to  
15 document everything to the client. It just  
16 was one more thing that -- in the process  
17 that, you know, was smoking mirrors by  
18 Adorama and Kitchen Winners.

19 Q Did you put that requirement in  
20 the contract between the parties?

21 A Authenticating?

22 MR. RAKHUNOV: Objection.

23 Q Any -- any --

24 A I don't know. I don't know.  
25 Read the document. I don't know if it's in

1 GILLING

2 there or not.

3 Q Okay.

4 A It was certainly discussed  
5 verbally multiple times.

6 Q But if it's not in the  
7 contract, obviously then it wasn't  
8 something that you considered worth putting  
9 in there, right?

10 MR. RAKHUNOV: Objection.

11 A No, because it was already  
12 agreed to. And, secondly, good practice  
13 and expectations in any relationship are to  
14 document and verify the examination of the  
15 D6319 gloves that we were getting. And  
16 that's where Hershey -- well, we did get a  
17 fraudulent report when we got the LevMed  
18 gloves delivered by Mendel, and I'm sure  
19 with Hershey's guidance, but the -- the --  
20 when we needed to deliver testing reports,  
21 Hershey Weiner would not give them to us.

22 MR. SPERBER: I'm going to mark  
23 the following document as  
24 Plaintiff's Exhibit 4.

25 (Whereupon, a Sales and

1 GILLING

2 Purchase Agreement was marked as  
3 Plaintiff's Exhibit 4 for  
4 identification, as of this date, by  
5 the reporter.)

6 Q Mr. Gilling, do you see a  
7 document in front of you that's labeled  
8 sales and purchase agreement?

9 Mr. Gilling?

10 A Yes, I see it.

11 Q I'm just going to scroll  
12 through it so you can see the whole  
13 document before I ask you specific  
14 questions.

15 Looking on page 4 of the  
16 agreement, there is a signature there. It  
17 appears to be from you. Is that your  
18 signature?

19 A Yup.

20 Q It's dated April 7, 2021?

21 A Yup.

22 Q And is this the contract  
23 between Kitchen Winners, Adorama, and Rock  
24 Fintek?

25 A You -- I don't -- I'd have to



1 GILLING

2 see it in its entirety.

3 MR. RAKHUNOV: Make sure you

4 look at the whole thing.

5 A Well, it just got smaller, so.

6 Q I'm trying to let you see the  
7 whole thing. If you want it bigger, I can  
8 make it bigger.

9 A I'd have to read it because  
10 there were multiple versions of it.

11 Q Well, this is the one that was  
12 signed, right?

13 A Uh-huh.

14 MR. RAKHUNOV: Objection.

15 Q Did you sign any other versions  
16 other than the final version?

17 A I'm not sure.

18 Q What would you look at to  
19 figure out whether this is the final  
20 version or not?

21 A By reading it.

22 Q Okay.

23 A Yeah. You'd have to scroll up.

24 Q Oh.

25 A Scroll down, rather.

1 GILLING

2 Uh-huh. Okay. Uh-huh.

3 Uh-huh. Okay. All right.

4 Q There's a schedule here. Okay.  
5 So is this the contract between Kitchen  
6 Winners, Adorama, and Rock Fintek?

7 A It appears to be that way, yes.

8 Q And you just read through the  
9 agreement. Was there somewhere in the  
10 agreement where Kitchen Winners or Adorama  
11 agreed to provide documentation to Rock  
12 Fintek concerning the gloves?

13 MR. RAKHUNOV: Objection.

14 A Other than the medical  
15 examination grade that was -- the gloves  
16 were failing and we had the document that  
17 that's what they were, further by testing  
18 reports which we requested from Hershey and  
19 he refused to give them to us. It was more  
20 of a courtesy than anything else. So no,  
21 it's not in this report. It came up after  
22 the fact that they were fake gloves.

23 Q I just want to run through a  
24 couple of the terms of the contract with  
25 you. If you look at Section 2-A, it

1 GILLING

2 appears, and you can tell me if this is  
3 your understanding as well; that the buyer,  
4 that was Rock Fintek, was going to provide  
5 a first deposit of \$1.25 million upon  
6 signing the agreement. Is that right?

7 A Yes.

8 Q And then there would be a  
9 second deposit of \$600,000 on April 26th or  
10 thereabouts?

11 A Uh-huh.

12 Q And that the deposit was going  
13 to be applied as payment in full for the  
14 last approximately 5.6 containers. Is that  
15 your understanding as well?

16 A That's what I'm reading.

17 Q If you look at section 2-D  
18 that's over here, it says that any payment  
19 of the purchase price payable for each box  
20 of gloves delivered, to be paid to seller  
21 upon buyer's inspection of the products at  
22 seller's warehouse in Los Angeles,  
23 California, prior to buyer's selection of  
24 delivered products. Did I read that  
25 correctly?

1 GILLING

2 A You've just read that sentence,  
3 yes.

4 Q So am I correct in  
5 understanding that Rock Fintek was going to  
6 be -- or told Kitchen Winners and Adorama  
7 that it would be inspecting the gloves upon  
8 selection of the gloves from seller's  
9 warehouse?

10 MR. RAKHUNOV: Objection.

11 A I don't -- I'm not aware of  
12 that. That -- and that might have  
13 happened. We might have had Demarco do  
14 that, but I'm not aware of it.

15 Q What does it mean where you  
16 said that you would be paying upon buyer's  
17 inspection of the products at seller's  
18 warehouse? What does that mean to you?

19 A That would have meant we would  
20 have sent Demarco or somebody to that  
21 warehouse to inspect the product.

22 Q Okay.

23 A I'm not sure we were allowed to  
24 do that during COVID at that time.

25 Q Then it says: Payments are

1 GILLING

2 considered timely if wire confirmation is  
3 made within 48 hours, excluding Saturday  
4 and Sunday, from product availability at  
5 seller's Los Angeles warehouse. Again, did  
6 I read that correctly?

7 A Yup.

8 Q Getting down to section 8,  
9 there was a rebate provision in here, which  
10 I'm just going to read it again. It says:  
11 Provided that all payments due hereunder  
12 are timely made, and only after the second  
13 deposit be funded, seller shall provide  
14 buyer a rebate of 50 cents per box for the  
15 first five containers delivered, for a  
16 total of \$75,000. Do you see where I am?  
17 Let me highlight it.

18 A Yes.

19 Q So am I correct in  
20 understanding that Rock Fintek was only  
21 entitled to a rebate if it timely made the  
22 payments under this agreement?

23 A Say that again?

24 Q Am I correct in understanding  
25 that Rock Fintek was only entitled to a

1 GILLING

2 rebate if it timely made the payments under  
3 this agreement?

4 MR. RAKHUNOV: Objection.

5 A That's not what happened.  
6 You're -- you're talking about apples and  
7 oranges.

8 Q Well, I'm just reading the  
9 contract. Is that what the contract says?

10 A Yeah. So we made timely  
11 payments until we were shorted on our  
12 trucks and LevMed gloves came onto our  
13 trucks, which, which just, which, you know,  
14 was a breach of contract at that point,  
15 which delayed payment from our buyer which  
16 was relying on to make these payments.

17 So once Adorama/Kitchen Winners  
18 breached us with shorting our trucks and we  
19 were paying in full for them, so we were  
20 overpaying along the way. And then LevMed  
21 gloves went on the trucks, which our client  
22 refused to pay us for. That's when this  
23 all came skewed.

24 So that will come out along the  
25 way as we go throughout this case. But as

1 GILLING

2 you're reading the contract, yes, late  
3 payments, they were caused by actions by  
4 Kitchen Winners and Adorama.

5 Q Okay, but that's not -- that's  
6 not what I'm asking here. I was asking  
7 about --

8 MR. RAKHUNOV: Listen to the  
9 question.

10 Q -- what the contract actually  
11 says.

12 A Okay. So read it again.  
13 What's your question?

14 Q Am I correct in understanding  
15 that Rock Fintek was only entitled to a  
16 rebate if it timely made all the payments  
17 under the contract?

18 A I don't --

19 MR. RAKHUNOV: Same objection.

20 Q Okay.

21 A That's not what happened. This  
22 is all -- I can -- that's why we have  
23 attorneys to sort this all out. It was  
24 breached prior to that, so. The breach  
25 happened by then, prior to that, so.

1 GILLING

2 MR. RAKHUNOV: I don't think  
3 there is a question pending.

4 THE WITNESS: Yeah.

5 Q Taking a look at section 7,  
6 manufacturing variance. The seller shall  
7 be allowed a variance in package quantities  
8 up to 10 percent, right? What does that  
9 mean?

10 A I don't know.

11 Q I mean you signed the contract.  
12 Did you have any idea what you were  
13 signing?

14 MR. RAKHUNOV: Objection.

15 A I had very, very well  
16 understanding of what I was signing.

17 So what that means in that  
18 section is they were struggling to deliver  
19 the proper sizes, 10/40/40/10, and they  
20 were concerned that they weren't going to  
21 be able to perform on that. Therefore,  
22 there is a variance in packing quantities  
23 of 10 percent extra large, 40 large and  
24 medium, and 10 small. So we were allowing  
25 a variance in that section.



1 GILLING

2 Q There have been some  
3 allegations made by Rock Fintek that  
4 Kitchen Winners did not provide the exact  
5 number of gloves that it was saying. Could  
6 that be explained by the provision here  
7 allowing for a 10 percent manufacturing  
8 variance?

9 A No.

10 MR. RAKHUNOV: Objection.

11 A No.

12 Q Why not?

13 A That's not what that is  
14 pertaining to. It is pertaining to packing  
15 quantities which is the types of gloves.  
16 10/40/40/10. Its size, everything about  
17 these things was getting the right size,  
18 and we had to complete the order with an  
19 exact amount of 10 percent extra large,  
20 40/40 large and medium, 10 percent small.

21 Q What does packing quantities  
22 mean to you?

23 A I'm going reiterate it again.  
24 It's we bought these in sizes very specific  
25 to the order of 10/40/40/10, different

1 GILLING

2 sizes. That's what it means.

3 Q I mean, if you look at the  
4 section 1 where it says right there,  
5 they're referring to sizes, right? Like  
6 over here -- I don't see where the word  
7 size is referenced.

8 A That's what the variance --  
9 they were having a problem getting us  
10 10/40/40/10 on each truck. So we were  
11 allowing them to have a little variance.  
12 It wasn't easy. You know, these things are  
13 coming off ships and put into shipping  
14 containers and put into a warehouse and  
15 then they had to be pulled and sent to us.  
16 We were very specific we needed  
17 10/40/40/10. It wasn't easy to do.

18 Q Take a looking at section 5.  
19 The seller shall import the product through  
20 customs and pay any taxes and duties.  
21 Buyer shall arrange for and pay the cost of  
22 ground transportation after customs  
23 clearance.

24 Did Rock Fintek arrange for and  
25 pay the cost of ground transportation after

1 GILLING

2 customs clearance?

3 A We paid several just  
4 undocumented bills holding [sic] us,  
5 extorting us that we weren't going to get  
6 product that Hershey Weiner created with no  
7 documentation, per our agreement to pay for  
8 that, for ground transportation.

9 And we paid -- we paid hundreds  
10 of thousands of dollars in transportation.

11 Q But, again, did Rock Fintek  
12 immediately pick up the gloves once they  
13 cleared customs?

14 A No. We weren't buying them  
15 from there. We were buying them from their  
16 warehouse.

17 Q Okay.

18 A Uh-huh.

19 Q Was that something that the  
20 seller agreed to pay here?

21 MR. RAKHUNOV: Objection.

22 A I don't know.

23 Q Am I correct in recalling that  
24 you asked Hershey Weiner to send parking  
25 invoices to you?

1 GILLING

2 A Yes.

3 Q Why did you ask that?

4 A Because we agreed to that.

5 Q Okay.

6 A We agreed. It would give us a  
7 pass-through cost. He was having them  
8 shipped to us in Chicago and he was passing  
9 through the cost to the investor. And what  
10 he gave us was just a simple thing that had  
11 like 7,500, 7,500, with no documentation.  
12 Once again his refusal to give  
13 documentation. Smoking mirrors.

14 Q Did he provide you ultimately  
15 parking invoices?

16 A No.

17 Q Okay. I would like to  
18 understand here. Rock Fintek has asserted  
19 a counterclaim against a number of parties  
20 claiming they were damaged. And I would  
21 want to try and understand what damages did  
22 Rock Fintek suffer here. So can you  
23 explain to me --

24 MR. RAKHUNOV: And I just want  
25 to put on the record that, you

1 GILLING

2 know, you're certainly free to ask  
3 Mr. Gilling about these topics but  
4 he is not appearing in his capacity  
5 as a Rule 30(b)(6) designee and has  
6 not specifically been prepared in  
7 that capacity because he is not  
8 here in that capacity to testify  
9 about damages. But I just want to  
10 be clear on the record, but with  
11 that you can go right ahead.

12 Q Sure. So with that caveat, Mr.  
13 Gilling, do you know what damages Rock  
14 Fintek suffered as a result of the alleged  
15 breach of contract by Adorama, Kitchen  
16 Winners, JNS, and Stern?

17 A Loss of our largest client.

18 Q Anything besides that?

19 A Yeah; the revenue lost from our  
20 largest client.

21 Q Let me see if I can back up a  
22 little bit. Rock Fintek sold gloves to a  
23 company called Ascension, correct?

24 A I can't answer that in the way  
25 it's worded right there.

1 GILLING

2 Q What's the confusion?

3 A Well, our -- we -- Resource  
4 Group procured all the products for  
5 Ascension, so Ascension was the end user of  
6 the gloves. So there's really two parties  
7 to that.

8 Q So Rock Fintek sold gloves  
9 either to Ascension or the Resource Group.

10 A Correct.

11 Q Would that be fair?

12 A Yeah. I mean, Research Group  
13 was the buying arm for Ascension hospitals.

14 Q Do you know, are they the same  
15 company or are they two separate companies?

16 A I don't know that.

17 Q How much did either Ascension  
18 or the Resource Group pay to Rock Fintek  
19 for those gloves?

20 A I don't -- I don't have the  
21 accounting for that.

22 Q But Rock Fintek -- excuse me --  
23 but Ascension or the Resource Group paid  
24 money to Rock Fintek for the gloves, right?

25 A Correct.

1 GILLING

2 Q Did Rock Fintek return any of  
3 that money to Ascension?

4 MR. RAKHUNOV: Objection.

5 A No. We weren't paid in full  
6 for it.

7 Q Do you know how much money you  
8 were not paid that you believe you should  
9 have been paid by Ascension?

10 A I don't know. Maybe a couple  
11 million bucks.

12 Q You said that Rock Fintek lost  
13 its biggest customer. Can you expand upon  
14 that?

15 A We lost our biggest customer,  
16 Resource Group and Ascension hospitals, by  
17 volume and by -- by volume and product  
18 sales.

19 Q How long had Resource Group  
20 and/or Ascension been customers of Rock  
21 Fintek?

22 A I don't know. It was -- that  
23 had started and was happening before I came  
24 aboard. So --

25 Q Do you know whether they were

1 GILLING

2 customers of Rock Fintek before the  
3 pandemic?

4 A I don't know that.

5 Q Who would know that?

6 A Thomas Kato.

7 Q You mentioned earlier that Rock  
8 Fintek went out of business. Why did it go  
9 out of business?

10 A Because we lost our biggest  
11 client.

12 Q You had other clients, correct?

13 A We had other clients along the  
14 way, yes.

15 Q And so you lost one client.  
16 Again, why did the company go out of  
17 business.

18 MR. RAKHUNOV: Objection.

19 A Was there a question there?

20 Q Yes. Again --

21 A You've asked this question  
22 about --

23 MR. RAKHUNOV: Again, asked and  
24 answered.

25 A You've repeatedly asked. I've



1 GILLING

2 asked it. You're asking it like to confuse  
3 me and trip me up in some other answer. I  
4 don't know.

5 Q No. Well --

6 A I mean, you've asked -- in my  
7 defense, I mean, a lot of the stuff is the  
8 same stuff so just, I don't know --

9 MR. RAKHUNOV: Just -- just --

10 A I don't know.

11 Q You were the COO of Rock  
12 Fintek. What were Rock Fintek's major  
13 costs?

14 A Major costs. I don't know.

15 MR. RAKHUNOV: Objection.

16 Q What were the biggest line  
17 items on -- in terms of expenses for Rock  
18 Fintek?

19 A I don't know.

20 Q Did --

21 A I wasn't an accounting and CFO  
22 and that sort of stuff. I didn't deal with  
23 anything with bank accounts, and I don't  
24 know that.

25 Q Did Rock Fintek have physical

1 GILLING

2 offices somewhere?

3 A Miami.

4 Q I'm sorry?

5 A In Miami.

6 Q Who worked out of those

7 offices?

8 A Tommy Kato and likely Anna.

9 Maybe Atil at some times.

10 Q Is that Anna Gajik (phonetic)?

11 A Yes.

12 Q What was her role at Rock

13 Fintek?

14 A She was working on the  
15 accounting side of it, bill payment.

16 Q And what was Atil Burak, what  
17 was his role?

18 A I don't know if he was -- he  
19 was more technology and systems.

20 Q Was he a full-time employee of  
21 Rock Fintek?

22 MR. RAKHUNOV: Objection.

23 Q Or was he -- well --

24 A He would have been a crossover  
25 employee for one of Tommy's other

1 GILLING

2 interests.

3 Q If I wanted to understand Rock  
4 Fintek's business structure, who would I  
5 speak to? Would it be or Tommy or someone  
6 else?

7 A Be specific about business  
8 structure.

9 Q Sure. If I wanted to  
10 understand or find out what Rock Fintek's  
11 biggest expenses were, who would I speak  
12 to?

13 A Thomas Kato.

14 Q Okay. Did Rock Fintek, to  
15 your knowledge, ever provide notice of  
16 breach of contract to Adorama?

17 A Yes.

18 Q Was that by e-mail or by mail  
19 or in some other fashion?

20 A Other fashion.

21 Q What fashion was that?

22 A Phone call.

23 Q Who did you speak to?

24 A Hershey Weiner.

25 Q Anybody else?

1 GILLING

2 A Not sure.

3 Q Did Rock Fintek ever provide  
4 notice of breach to Joseph Mendlowitz?

5 A Not sure. They were one and  
6 the same, so not sure.

7 Q But you have a specific cause  
8 of action here against Joseph Mendlowitz,  
9 correct?

10 A If you can put that out in  
11 writing so I can read it.

12 Q Sure. Absolutely. I'm going  
13 to show you again what was marked as  
14 Plaintiff's Exhibit 1. This is the amended  
15 complaint, or the -- I'm sorry, the amended  
16 counterclaim.

17 A So when you say "you," it's not  
18 -- I don't have a specific cause of action  
19 against anyone. I'm a contracted employee.  
20 It's not like --

21 Q So --

22 A You is not me. It's -- if  
23 you're talking about Rock Fintek has a  
24 cause of action, that's for Rock Fintek to  
25 decide.

1 GILLING

2 Q Okay.

3 A But you can show me if you want  
4 and I can say yeah, that looks great.

5 Q Absolutely. So Rock Fintek has  
6 a third-party complaint. One of the  
7 third-party defendants here is Joseph  
8 Mendlowitz.

9 A Yeah.

10 Q I'll take you down to the very  
11 bottom here. There's a claim here for  
12 breach of warranty. And it says over here  
13 that -- paragraph 179. As detailed above,  
14 Adorama, Kitchen Winners, JNS, Stern,  
15 Weiner, and Mendlowitz directly and through  
16 their agents, including Bannon, provided  
17 Rock Fintek with written express  
18 warrantees, including the specific  
19 quantities of gloves being sold to Rock  
20 Fintek, including quantities of gloves  
21 being sold to Rock Fintek were MedCare  
22 brand nitrile/NBR medical grade examination  
23 grade gloves bearing an FDA 510-K  
24 certification.

25 Do you see where I am?

1 GILLING

2 A Yes.

3 Q So first, when did Mendlowitz  
4 personally provide a written express  
5 warranty to Rock Fintek?

6 A I would assume on the phone  
7 call. Or on multiple phone calls he could  
8 have done it.

9 Q Okay.

10 MR. RAKHUNOV: And let me --  
11 can I just jump in here? And,  
12 because I just want to save us some  
13 time. I mean, the document that  
14 you referenced earlier that we told  
15 you is in the chat that you claimed  
16 wasn't produced -- just take a look  
17 at that document. The witness may  
18 or may not remember it, but -- you  
19 know, that would probably answer  
20 your questions.

21 And I just want to make sure  
22 that the record is clear. I think  
23 your question was framed in terms  
24 of a breach of contract claim  
25 against Mr. Mendlowitz, and we're

1 GILLING

2 looking at a breach of warranty  
3 claim, which is very different. So  
4 just note my objection to the form  
5 of the objection.

6 MR. SPERBER: You've noted your  
7 objection, but I'm still asking  
8 whether notice of breach was ever  
9 provided to Mendlowitz personally.

10 MR. RAKHUNOV: Notice of breach  
11 of warrantees or breach of --

12 MR. SPERBER: Notice of breach  
13 of warrantees. Sure.

14 MR. RAKHUNOV: Whatever the  
15 witness remembers.

16 A Is there a question?

17 Q Yes. Again, do you have any  
18 knowledge as to the manner in which -- or  
19 let me rephrase that.

20 Do you have any knowledge as to  
21 whether Rock Fintek ever provided notice of  
22 breach of warranty to Mendlowitz  
23 personally?

24 A I did not have knowledge of  
25 that.

1 GILLING

2 Q Do you have any knowledge of a  
3 written express warranty provided by  
4 Mendlowitz to Rock Fintek?

5 A Did you say warranty?

6 Q Warranty.

7 MR. RAKHUNOV: Objection.

8 A Yeah. Explain warranty to me.

9 Q I'm just reading the words on  
10 here that Rock Fintek wrote that said  
11 Mendlowitz, directly and through its  
12 agents, provided Rock Fintek with written  
13 express warrantees. So I'm just curious;  
14 do you have any personal knowledge about  
15 that?

16 A I very well could if it was  
17 explained to me better. I don't quite  
18 understand in the context that that's  
19 written.

20 Q Did Mendlowitz, to your  
21 knowledge, provide anything in writing to  
22 Rock Fintek?

23 A Yeah. He gave us the contract  
24 they signed for the medical examination  
25 gloves.



1 GILLING

2 Q Anything else?

3 A No. That's it. That's all we  
4 needed to do the deal, so --

5 Q Okay.

6 A And in that was the discussion  
7 of what we were getting, which was medical  
8 examination gloves.

9 Q To your knowledge, did Rock  
10 Fintek ever provide notice of breach of  
11 warranty to Adorama?

12 A Is Adorama -- Adorama -- yes.  
13 Yes. We provided it to Weiner.

14 Q Any other way?

15 A No. We provided it to Weiner  
16 about the -- about the breach. Yeah. I'm  
17 sure. We would have done it with Mendel,  
18 I think, along the way too but Weiner and  
19 Kitchen Winners/Adorama, yeah, we provided  
20 it to them. They were -- they were  
21 operating in the same -- they were the same  
22 company.

23 MR. SPERBER: Okay. Can we  
24 take five minutes? I think I may  
25 be done.

1 GILLING

2 (Whereupon, a short recess was  
3 taken.)

4 EXAMINATION BY

5 MR. FRISCH:

6 Q Good afternoon, Mr. Gilling.  
7 My name is Avram Frisch. Same instructions  
8 apply as with Mr. Sperber. Let's try to  
9 get through this as quickly as we can.

10 There was a letter from  
11 Ascension's counsel in March 2022 that says  
12 that Rock Fintek was only formed in May  
13 2021. Do you know what that's referring  
14 to?

15 A I do not.

16 Q Do you know if Rock Fintek has  
17 an operating agreement?

18 A I do not.

19 Q Do you know why Ascension or  
20 Resource Group often refers to Rock Fintek  
21 as M Hub?

22 A I do not.

23 Q Do you know if any of the  
24 dealings between Ascension and Tommy Kato's  
25 company was with M Hub as opposed to Rock

1 GILLING

2 Fintek?

3 A I do not.

4 Q What experience did you have in  
5 the PPE business before you started working  
6 for Rock Fintek?

7 A None.

8 MR. RAKHUNOV: Objection.

9 Asked and answered.

10 MR. FRISCH: I'll ask for a  
11 little bit of leeway just so that I  
12 can get on to the subjects that,  
13 you know, I need to get to.

14 Q Do you know what experience  
15 Thomas Kato had in the PPE business?

16 A Prior to what?

17 Q Prior to COVID.

18 A I have no idea.

19 Q What work experience did you  
20 have that prepared you to be a chief  
21 operating officer?

22 A The trading company.

23 MR. RAKHUNOV: Objection.

24 A I've got a tremendous amount of  
25 business acumen.

1 GILLING

2 Q You discussed Rock Fintek going  
3 out of business and stopping sales to other  
4 customers. Are there any business records  
5 that you have that would indicate the dates  
6 on which you stopped selling to those  
7 customers, or that Rock Fintek would have?

8 A I think financial records would  
9 show the --

10 MR. FRISCH: I'm going to call  
11 for the production of those  
12 records.

13 MR. RAKHUNOV: Objection, but  
14 we can talk about that off-line.  
15 I'm not sure what records you're  
16 even referring to.

17 MR. FRISCH: Financial records  
18 he literally just testified about.  
19 Those records.

20 Q Do you know in whose possession  
21 those documents would be?

22 A I just -- I said financial  
23 records would be referring to bank records.

24 Q Did Rock Fintek maintain  
25 QuickBooks or something like that, a

1 GILLING

2 general ledger software?

3 A I don't know.

4 Q Do you know who would know?

5 A Thomas Kato.

6 Q Are you still personally  
7 involved in the PPE business?

8 A Other than dealing with this,  
9 no.

10 Q Do you know if Thomas Kato is  
11 personally in the PPE business at this  
12 time?

13 A I don't know.

14 Q Did Rock Fintek ever make money  
15 in the PPE business, to the best of your  
16 knowledge? Was it ever profitable?

17 MR. RAKHUNOV: Objection.

18 A Yes.

19 Q This is despite the fraud in  
20 Vietnam where you lost millions of dollars?

21 MR. RAKHUNOV: Objection.

22 A Yes.

23 Q Do you know, how did Rock  
24 Fintek get introduced to Ascension?

25 A I don't know.

1 GILLING

2 Q Were all the gloves sold to  
3 Ascension or Resource Group through the  
4 same contract or were there multiple  
5 contracts?

6 A Two contracts. Two, maybe  
7 three.

8 Q Do you recall the terms of the  
9 other contracts? Well, let me rephrase.

10 Do you recall the terms of the  
11 contracts that were between Rock Fintek and  
12 Ascension or Resource Group?

13 A I don't know them specifically.

14 Q When did you first buy gloves  
15 from JNS?

16 A I don't know.

17 MR. RAKHUNOV: Objection. When  
18 you -- when you say "you," you mean  
19 Rock Fintek, right?

20 MR. FRISCH: Yeah. Correct.  
21 Although Mr. Gilling in his role as  
22 COO of Rock Fintek was clearly  
23 involved in that.

24 MR. RAKHUNOV: Of course.

25 Q So do you recall if it was

1 GILLING

2 prior to you meeting the Kitchen Winners  
3 people?

4 A Yes.

5 Q It was?

6 A Yes.

7 Q Was it approximately February  
8 2021?

9 A I don't know.

10 Q Were the MedCare gloves sold to  
11 you by JNS the first MedCare gloves Rock  
12 Fintek had purchased?

13 MR. RAKHUNOV: Objection.

14 A I don't know.

15 Q Who would know?

16 A I don't know if anybody would  
17 know that.

18 Q Who else did you buy MedCare  
19 gloves from? By "you," I mean Rock Fintek.

20 A I don't know -- Joel Stern,  
21 JNS. I think -- I think JNS had another  
22 party sourcing group which comes to mind.  
23 That was on something that -- that Joel was  
24 part of Kitchen Winners, Adorama, Hershey  
25 Weiner, Mendlowitz, Mendel Bannon. Mendel

1 GILLING

2 Bannon had some sort of like a side deal, I  
3 think, for ordering gloves too through his  
4 wife or something.

5 Q Were any MedCare gloves  
6 purchased from a party that is not involved  
7 in this litigation?

8 A I don't know, but my -- I would  
9 think no.

10 Q Do you recall the first date on  
11 which MedCare gloves were delivered to  
12 MedLine on behalf of JNS?

13 A If you show me a document, I  
14 could probably verify that, but I don't  
15 know.

16 Q We'll get there. Okay.  
17 How did you keep track of which  
18 gloves were sold by JNS and which gloves  
19 were sold to you by Kitchen Winners? By  
20 Kitchen Winners, I mean all the Kitchen  
21 Winners parties. I'm not distinguishing at  
22 the moment.

23 A We bought -- we bought gloves  
24 from Joel Stern at the beginning, to make  
25 our relationship solely from Joel Stern.



1 GILLING

2 It wasn't till later that they crossed  
3 paths for just a brief moment. And then we  
4 brought directly from Adorama and Kitchen  
5 Winners. So there might have been an  
6 overlap for one or two loads, but they were  
7 very separate. It was Joel Stern first and  
8 then Kitchen Winners and Adorama second.

9 Q Do you know, did Ascension ever  
10 put -- when Ascension first put MedCare  
11 gloves into circulation in its hospitals?

12 A I don't.

13 Q Do you know the first time  
14 Ascension complained about gloves,  
15 specifically gloves sold to it by JNS?  
16 Sold to you by JNS.

17 A I know the time period. It was  
18 about 31, 32 days after the last delivery.

19 Q The last delivery from the  
20 Kitchen Winners people?

21 A Uh-huh.

22 Q So before that there were no  
23 complaints; is that correct?

24 A They weren't in the system.  
25 And so --

1 GILLING

2 Q Do you know when you first  
3 provided notice of complaints to JNS or  
4 Joel Stern?

5 A No.

6 Q Did Rock Fintek ever refund any  
7 money to Ascension? This may have been  
8 asked already, but just in case it wasn't.

9 MR. RAKHUNOV: Note my  
10 objection. It has been, but you  
11 can answer again.

12 A Regarding this, gloves?

13 Q Yes.

14 A We did a ton of business with  
15 our client that was non-glove, so --

16 Q Did you provide any replacement  
17 gloves to Ascension?

18 A No.

19 Q Do you recall how you were  
20 introduced to Mr. Stern?

21 A Say it again?

22 Q How were you introduced to  
23 Mr. Stern?

24 A I think by Mrs. Li.

25 Q And Mrs. Li worked for Rock

1 GILLING

2 Fintek, did she not?

3 A No.

4 Q So what was your relationship  
5 with Mrs. Li?

6 A She was a broker.

7 Q And you paid her a commission?

8 A I don't know.

9 Q Did Mrs. Li work for JNS?

10 A I don't know.

11 Q Isn't it true that you had  
12 months and months of conversations with  
13 Mrs. Li trying to identify gloves to  
14 purchase?

15 A I don't know.

16 MR. FRISCH: I wasn't planning  
17 on even doing this as an exhibit,  
18 but I just, I need to make sure  
19 that we are all on the same page.  
20 All right. I'm going to share my  
21 screen. I guess we will label this  
22 as JNS number 1.

23 (Whereupon, an off-the-record  
24 discussion was held.)

25 (Whereupon, a WhatsApp chat

1 GILLING

2 text was marked as Third-Party  
3 Defendant's Exhibit A for  
4 identification, as of this date, by  
5 the reporter.)

6 Q Let me share my screen.

7 I'm sharing with you, this has  
8 been marked as Third-Party Exhibit A. This  
9 is a chat that was produced from WhatsApp  
10 by Rock Fintek between you, Thomas Kato,  
11 and Ms. Li.

12 Does this refresh your  
13 recollection as to the dealings with Ms.  
14 Li?

15 A I don't see any on there  
16 anywhere.

17 Q Go down. It's hundreds of  
18 lines long.

19 THE REPORTER: Excuse me.

20 Somebody is in the waiting room.

21 (Whereupon, an off-the-record  
22 discussion was held.)

23 Q You see here you start being --  
24 I think you said by 11/12/2020 you start  
25 being in the chat pretty extensively. And

1 GILLING

2 this goes on and on. These chats go from  
3 November 2020, it looks like all the way  
4 down to June 2021.

5 Does this refresh your  
6 recollection of your dealings with Ms. Li?

7 A This -- this text chain doesn't  
8 re -- no. But I know who she is.

9 Q Are you saying that you didn't  
10 have months of discussions with her over  
11 various gloves?

12 A I didn't say that at all. No.  
13 I didn't say that.

14 Q So you did, you had substantial  
15 discussions with her over -- you know, with  
16 numerous offers of different gloves. Is  
17 that correct?

18 A That's correct.

19 Q When did you initially become  
20 aware of an entity called JNS Capital?

21 A I don't know.

22 Q Was it right at the beginning  
23 of your dealings with Mr. Stern?

24 MR. RAKHUNOV: Objection.

25 A I don't know.

1 GILLING

2 Q Who introduced you -- was Ms.  
3 Li dealing directly with Mr. Stern or was  
4 there another intermediary?

5 A I don't know.

6 Q Do you recall an individual  
7 named Bruno?

8 A I know the name. He was on  
9 some -- I thought he was -- actually, Bruno  
10 was referred to by Stern as one of his  
11 partners.

12 Q In a phone call you had with  
13 him or in a document?

14 A I've seen his name on documents  
15 and phone calls.

16 Q Referring to him as a partner?

17 A No. I've seen his name,  
18 Bruno's name, on documents.

19 Q You were aware that Mr. Stern  
20 was operating through a limited liability  
21 entity?

22 A No.

23 MR. RAKHUNOV: Objection.

24 Q Did your purchase order that  
25 you sent to Mr. Stern, was that directed at

1 GILLING

2 JNS or was it directed to Mr. Stern  
3 personally?

4 A You would have to show me the  
5 multiple purchase orders or invoices,  
6 regardless.

7 Q Do you recall signing an escrow  
8 agreement between you, Mr. Stern, and a law  
9 firm?

10 A I would have to see it.

11 Q All right. And we will.

12 This is going to be labeled as  
13 Third-Party Defendant's Exhibit B. Do you  
14 recall this agreement?

15 A I can't -- can you blow it up,  
16 please.

17 Q I'll try. Let me see. Is it  
18 still showing?

19 A No. It's still showing.

20 Yeah, that's great. That's  
21 perfect.

22 Q I put it on a bigger screen,  
23 so --

24 (Whereupon, a escrow agreement  
25 was marked as Third-Party

1 GILLING

2 Defendant's Exhibit B for  
3 identification, as of this date, by  
4 the reporter.)

5 A Yeah. Okay, so there is no  
6 date on this. Is this a draft?

7 Q Actually, I'm going to go down  
8 to the signatures.

9 A Well, there's no date on the  
10 top. It doesn't have --

11 MR. RAKHUNOV: Just wait.

12 There is no question pending.

13 Q I am going down here. Was this  
14 signed by Rock Fintek by Thomas Kato? Do  
15 you know if that's Mr. Kato's signature?

16 MR. RAKHUNOV: Objection.

17 A I can't verify that.

18 Q Have you ever seen Mr. Kato's  
19 signature?

20 A Yes.

21 Q Do you think that looks  
22 similar? It's a fairly unique signature.

23 A I can't verify that. I don't  
24 -- I don't know that.

25 Q Who is Gunster, Yoakley, and



1 GILLING

2 Stewart?

3 A That's our attorney, Scott  
4 Coffey.

5 Q Why was he signing this  
6 agreement?

7 MR. RAKHUNOV: Objection.

8 A That -- that agreement was  
9 never put into place. We didn't escrow, to  
10 my knowledge. This was just -- this was  
11 never even an active document. It was a  
12 working document. Nothing was ever  
13 escrowed.

14 Q Why not?

15 A It was never --

16 MR. RAKHUNOV: Objection. Did  
17 you just ask a question?

18 MR. FRISCH: I did. I said why  
19 not? He said it --

20 MR. RAKHUNOV: I didn't hear  
21 it. That's all.

22 A Why wasn't it?

23 Q Yes. Why wasn't it put into --

24 A Because I think we decided just  
25 to pay Stern directly.

1 GILLING

2 Q Okay. So you did execute this  
3 agreement.

4 A No. It wasn't executed by all  
5 parties. It was -- it was never used.  
6 This agreement was never used. We never --  
7 we never -- we never consummated it. It  
8 was never used. We didn't put -- we didn't  
9 put money in escrow. We didn't do an  
10 escrow deal.

11 Q Did you intend to waive trial  
12 by jury?

13 A No. No. This agreement was a  
14 working document that was never signed or  
15 agreed to.

16 Q Well, it was signed by -- it  
17 was signed by Rock Fintek and it was signed  
18 by --

19 A The parties were the escrow  
20 agents and they were -- what happened there  
21 was they, my recollection was Gunster,  
22 Scott Coffey, his firm wasn't going to  
23 escrow. We had to get a different escrow  
24 agent out of Florida that would actually  
25 escrow the funds. Then it became more

1 GILLING

2 hassle than it was worth so we abandoned  
3 doing this and just paid directly.

4 Q But does this refresh your  
5 recollection that you were dealing with JNS  
6 Capital, LLC?

7 A I was dealing with Stern. I'd  
8 have to -- I don't know if we bought from  
9 -- I don't recollect -- isn't there a JNS  
10 and now there's a JNS Capital that's a  
11 different?

12 MR. RAKHUNOV: I think JNS  
13 Capital is the entity. That's the  
14 entity that you guys are suing.

15 A Yeah, I don't -- I think we're  
16 suing Joel Stern too; is that correct?

17 MR. SPERBER: You are.

18 A That's who we were dealing  
19 with.

20 Q You were being advised by  
21 counsel when you were dealing with JNS and  
22 Mr. Stern in February 2021?

23 MR. RAKHUNOV: We're now  
24 just --

25 Q Yes or no question.

1 GILLING

2 MR. RAKHUNOV: -- getting into  
3 a sensitive area, so --

4 A Counsel wasn't hired by me.  
5 That was hired by -- by Rock Fintek, so --

6 Q At the time, did you ever  
7 request any documentation from JNS about  
8 their corporate formation?

9 MR. RAKHUNOV: Objection.

10 A I'm not aware of that.

11 Q Did you ever ask for any  
12 documentation about the capitalization of  
13 JNS?

14 A Yes, I did.

15 Q Where?

16 A On the phone. We talked to  
17 Joel about he had partners that were  
18 backing him. He had -- there was some  
19 builders, a development group that were  
20 backing him. He was just the operations  
21 guy. And there were other principals that  
22 were giving him financial backing.

23 Q Did you have any reason to  
24 assume that was false?

25 MR. RAKHUNOV: Objection.

1 GILLING

2 A Well, I didn't until now  
3 because everything was false we got, so.  
4 I don't know. Good point. That's a good  
5 point. If we're all -- it's all deception.  
6 That's a very good point.

7 Q Did you have a representative  
8 inspect the gloves before picking up your  
9 first set of gloves from Mr. Stern's  
10 company?

11 A I'm not aware of that. I  
12 believe Mrs. Li could have done that, but  
13 I'm not aware.

14 Q And Mrs. Li was working on your  
15 behalf, was she not?

16 A Mrs. Li was a broker. We were  
17 working with, you know, 50 different  
18 brokers. So she was just one of the  
19 brokers that we were dealing with.

20 Q But you paid her.

21 A I don't know. I wasn't in  
22 charge of banking, so I don't know if we  
23 paid her or not.

24 Q Did Mr. Stern make any  
25 representations to you personally about

1 GILLING

2 that transaction?

3 MR. RAKHUNOV: Objection.

4 A I don't understand your  
5 question.

6 Q Did Mr. Stern make any  
7 representations about the quality of the  
8 gloves or anything about the gloves to you?  
9 Did he tell you anything about the gloves?

10 A Yes. We were buying medical  
11 examination gloves. That's what we were  
12 buying. Very specific what we needed to  
13 buy. Multiple conversations with Stern  
14 about the quality of what the gloves needed  
15 to be. And he assured us and said that's  
16 what these are.

17 Q Do you have evidence that the  
18 gloves he sold you were not the gloves that  
19 you needed?

20 A Yes.

21 Q Where is that evidence?

22 A Testing reports that we have  
23 sent them out for testing. We have now  
24 harvest a full -- actually a fairly  
25 significant amount of boxes for testing

1 GILLING

2 that we are going to send out and have  
3 retested. Which, you know, if the first 11  
4 tests we have done are accurate to the  
5 tests that Ascension hospitals had done, I  
6 think it's all going to show that these  
7 gloves are not medical examination gloves  
8 at all.

9 Q You don't know that; you're  
10 just hoping for that.

11 A Well, I sent it out for a  
12 letter and answering reports and I've seen  
13 all 11 test reports, so I know, I know 11  
14 boxes --

15 Q I've seen the test reports.  
16 But let's focus on what you actually know.  
17 Do you know whether or not the gloves that  
18 Mr. Stern sold were even still in the  
19 warehouse?

20 A Yes.

21 Q How do you know?

22 A MedLine has a very specific --  
23 when trucks come off, the pallets from that  
24 truck are loaded into specific spots and  
25 are tracked. So we know the date that we

1 GILLING

2 got it from Mr. Stern. And, furthermore,  
3 there are numerous, numerous pallets marked  
4 with JNS Capital on them.

5 Q Well, did you -- weren't you  
6 the one who put those markings on the  
7 pallet?

8 A No.

9 Q Well, who did?

10 A JNS. They would have arrived  
11 by JNS, shrink-wrapped by JNS before they  
12 came into the MedLine facility. So they  
13 were marked in the warehouse by the 3PL and  
14 sent on trucks by Joel Stern's operations.  
15 In fact, several of them have names by both  
16 Kitchen Winners and Joel Stern. There's  
17 another party on there too.

18 Q So it's your testimony that of  
19 those pallets that had those signs on them,  
20 that they arrived with those signs.

21 A Correct.

22 Q How do you know that if you  
23 were not able to inspect the pallets?

24 A I know that because I've been  
25 in the warehouses and talked to the



1 GILLING

2 operation managers on how they came in.

3 And they come in shrink-wrapped from the

4 3PL with those pieces of paper in them to

5 identify in the 3PL where they came from,

6 which is a total normal way of identifying

7 whose product is what in a 3PL warehouse.

8 So it's very common that that's how that's

9 identified and then shipped and it's still

10 wrapped that way.

11 Q So your testimony is some third

12 party put those signs, that we don't know

13 who it is, but some third party in a

14 warehouse, prior to them arriving, based on

15 representations made to you by MedLine --

16 A No. No, that's not my

17 testimony. My testimony is exactly how I

18 said it. Which there is two things. One

19 is that, and then, secondly, MedLine knows

20 specifically what was delivered by Joel

21 Stern and where it was wrapped.

22 So it's not -- it's a science.

23 It's accurate. It's actually fact. It's

24 not a science. They know where Joel

25 Stern's trucks were dropped off and where

1 GILLING

2 they're slotted, so --

3 Q That's your testimony.

4 A Including the sticker.

5 Q I'm going to show you another  
6 document, Third-Party C. Do you recall  
7 this tallied document? Have you ever seen  
8 documents like this?

9 (Whereupon, tally document was  
10 marked as Third-Party Defendant's  
11 Exhibit C for identification, as of  
12 this date, by the reporter.)

13 MR. RAKHUNOV: So, yeah, can we  
14 get the Bates number please?

15 MR. FRISCH: If there is one.  
16 I don't see one. This may not have  
17 come from -- this is probably from  
18 one of the chats. So it doesn't  
19 have -- oh, it's 1231, actually.  
20 It's in the file.

21 MR. RAKHUNOV: Yeah.

22 Q Do you recall receiving tally  
23 forms like this?

24 A I did not receive any of these.  
25 I don't even know what this is about. Who

1 GILLING

2 tallied this? Where is this from?

3 Q Well, it says Caravan, Inc.,  
4 inbound tally. And these are the listing  
5 of various size gloves. I'm just reading  
6 what it says. You're saying you never  
7 received this.

8 A I don't know what it is. I  
9 don't know who Caravan, Inc. is, I don't  
10 know who Avirol Kraus is. I don't know what  
11 this tally is.

12 Q I'm going to switch back to the  
13 chat with Ms. Li, because, frankly, I like  
14 truth and I don't think you're telling me  
15 the truth, honestly.

16 MR. RAKHUNOV: Objection.

17 That's --

18 MR. FRISCH: Well, if he --

19 MR. RAKHUNOV: That's not how  
20 you conduct a deposition, Avi. I  
21 mean ask him a question. Your  
22 opinion is not relevant here.

23 THE WITNESS: He just called me  
24 a liar, by the way.

25 MR. RAKHUNOV: He did. That's

1 GILLING

2 why --

3 Q You're lying. You've been  
4 lying all day. So let's -- let's get on to  
5 it.

6 A I did not lie all day.

7 MR. RAKHUNOV: Right.

8 THE WITNESS: This is crazy.

9 Like what kind of --

10 MR. RAKHUNOV: Brad, I told you  
11 he was going to --

12 THE WITNESS: Listen. I'll  
13 just check out of this thing. I'll  
14 leave this thing and --

15 MR. RAKHUNOV: No, no, no, no,  
16 Brad, you're not -- you're not  
17 going to do that. I told you he  
18 would be a jerk and try to get  
19 under your skin, so just answer the  
20 questions.

21 THE WITNESS: That's not  
22 professional, you know.

23 MR. RAKHUNOV: Just answer the  
24 questions.

25 Q Now, if you see here, and this

1 GILLING  
2 was back to Exhibit A, your conversation  
3 with Miss Li on 2/10/21. I'm going to  
4 highlight it for you. Do you see -- do you  
5 see this document referenced here?

6 A Yes.

7 Q Do you see the reference to  
8 this document 1231 Aviro, and that's the  
9 document that we were just looking at?

10 A Yeah, so that's what you're  
11 calling me a liar about?

12 MR. RAKHUNOV: Brad. Brad.

13 Brad. Brad. Brad. Brad.

14 A Did I see a copy of it and I  
15 said --

16 MR. RAKHUNOV: Brad, there's no  
17 question.

18 A This is for a container for a  
19 pickup today. Yes, I see that.

20 Q Now, when you see this tally  
21 sheet, did you say it was wrong? Like  
22 exactly explain to you -- explain to me  
23 what was going on here.

24 A Yes. I'd say what happened?  
25 It's not 10/40/40/10. This isn't what we

1 GILLING

2 expected. What a surprise. Yes.

3 Q So you got tallies of various  
4 documents, though, of shipments as they  
5 were coming in.

6 A This is a one-off. This did  
7 not happen all the time.

8 Q Okay.

9 A This is not protocol. This is  
10 -- this is -- that's why it's -- it's not  
11 common practice, what we were doing.

12 Q You're saying it was not  
13 protocol that they were off from the  
14 10/40/40/10?

15 A Show me -- show me another 21  
16 of these -- 20 or 50 of these. Show me  
17 another 20 of these. Then I'll say it was  
18 protocol, but I don't -- I would like to  
19 even see another one of these.

20 Q Okay. I'm sure you can go look  
21 for it in your time.

22 A Show me a bunch of them because  
23 I don't -- I don't recall.

24 But yes, we had a problem with  
25 sizes. Very accurate.

1 GILLING

2 Q So what --

3 A -- 10/40/40/10, and based on  
4 that report you just showed me, it was not  
5 that.

6 Q That was one -- one set of  
7 tallies. So you were able to know what you  
8 were getting when they were delivered,  
9 weren't you?

10 A Sizes.

11 Q Did nobody at MedLine or  
12 Ascension ever open the boxes?

13 A No.

14 MR. RAKHUNOV: Objection.

15 Q Why not?

16 A Not that I'm aware of.

17 Q Why not?

18 A They just, they wouldn't do  
19 that. It's not what they would do there.

20 Q What if somebody had sent you a  
21 box of potatoes? They didn't open any of  
22 the boxes to see that there were actually  
23 gloves inside? I find that hard to  
24 believe.

25 A Well, I can't answer MedLine.

1 GILLING

2 So why don't you go ask them.

3 Q We will ask them.

4 A Good. Get your answer there.  
5 I'm not MedLine.

6 Q Okay.

7 THE WITNESS: Is it possible to  
8 blow your nose because the  
9 sniffing is getting --

10 MR. FRISCH: I'll tell you, by  
11 the way, just because you seem very  
12 interested in my medical history.  
13 I'd had two surgeries on my nose.

14 THE WITNESS: I don't want to  
15 hear -- I would rather not hear  
16 about your medical.

17 MR. FRISCH: Try to deal with  
18 it. It is what it is.

19 THE WITNESS: Less sniffing  
20 would be helpful.

21 MR. FRISCH: Well, there's not  
22 much I can do about it. Blowing my  
23 nose won't help. By the way, go  
24 talk to my wife. She is very well  
25 with you on this.



1 GILLING

2 Q Okay. So did you have a  
3 conversation with Miss Li on 2/13? It's  
4 still shared. Let me go to it here.

5 Do you recall this conversation  
6 that's now showing on the screen?

7 A It's two and a half years ago.  
8 I don't--

9 Q Do you know --

10 MR. RAKHUNOV: Why don't you --  
11 Brad, why don't you actually take a  
12 minute and read through the texts.  
13 Yeah, take your time. Make sure  
14 you read --

15 THE WITNESS: I read it.

16 Q Do you know if they ever sent  
17 any gloves by air freight to make up the  
18 tallies?

19 A No.

20 Q No, you don't know or no, they  
21 didn't?

22 A No, they didn't. That I'm  
23 aware of.

24 Q Were these tallies ever  
25 corrected?

1 GILLING

2 A Well, this is when -- this was  
3 when Joel Stern was referencing to Adorama  
4 and Kitchen Winners that they were the ones  
5 that were sending them this way and they  
6 were going to get it corrected.

7 Q Do you recall ever texting -- I  
8 guess it's not this -- I thought it was  
9 this chat, but it's not. Do you recall  
10 saying on February 13, '21 -- it's changed,  
11 but give me a second. No, that looks good.

12 I apologize. I don't remember  
13 which text it is, but I'm not seeing it  
14 here.

15 You guys have no control over  
16 process, processing gloves?

17 A It's right there on 213.

18 Q Oh, there it is. Okay.

19 Do you recall that these guys  
20 have no control over process, hustling  
21 gloves is zero control, really  
22 disappointed, Miss Li.

23 Do you remember saying that?

24 A I didn't say it. I texted it.

25 What's your question?

1 GILLING

2 Q Do you recall saying this in  
3 the text?

4 A I recall texting this, yes.

5 Q So you understood that JNS had  
6 very little control over the process?

7 A That's -- that's not exactly  
8 what I'm saying here.

9 Q It's literally what you said.  
10 These guys have --

11 A I'm stating no control over  
12 process. That's not stating that JNS  
13 doesn't have any control over Adorama or  
14 Kitchen Winners. It's just poor business.

15 Q Poor business. Do you have any  
16 idea if any of these gloves were ever used  
17 by a provider at Ascension?

18 MR. RAKHUNOV: Objection.

19 A MedCare gloves were used by  
20 Ascension hospitals, yes.

21 Q I think I asked you. You don't  
22 know when they started using them, correct?

23 A I don't.

24 Q Do you know if they ever -- did  
25 they ever get to check any of the gloves?

1 GILLING

2 MR. RAKHUNOV: Objection.

3 A I'm not Ascension. I don't  
4 know that.

5 Q Did you ever send them any  
6 gloves to sample?

7 MR. RAKHUNOV: When?

8 Q Ever.

9 A I don't recall.

10 Q Were you ever made aware of any  
11 quality issues specifically with that  
12 initial glove order from JNS in February  
13 2021?

14 A I don't -- which -- how many  
15 gloves? I don't know which -- because we  
16 bought from Joel several times. I don't  
17 know the initial one.

18 Q The first -- the first order.  
19 The one that you were going to escrow for,  
20 the one that we've been discussing. Do you  
21 know of any issues with that shipment?

22 A I don't.

23 Q Do you know if any of your  
24 testing reports tested gloves from that  
25 shipment?

1 GILLING

2 A I would have to see the testing  
3 reports to figure it out. We could  
4 certainly do that easy enough.

5 Q Which documents would I look at  
6 to identify the claim -- you know, they've  
7 identified the lot that was delivered in a  
8 particular delivery? Like where would I  
9 find that?

10 A Well, there's two ways. One is  
11 -- one is MedCare provided us with all the  
12 documents of what they shipped in the  
13 testing reports that they -- they in the  
14 lot numbers for what they shipped and what  
15 Kitchen Winners, Adorama, and Joel Stern  
16 bought. So we have those tracked down to  
17 the actual lot numbers. And it's taking  
18 those lot numbers which were specific to  
19 the gloves that we bought from Joel Stern  
20 and Adorama and Kitchen Winners and having  
21 those tested, which can be tracked down by  
22 MedLine, which knows exactly when those  
23 gloves arrived and when they were slotted  
24 into the different slots.

25 So you know. We have a high

1 GILLING  
2 amount of accuracy exactly the lot numbers  
3 that we purchased from Joel Stern, Kitchen  
4 Winners, and so forth. And each -- each  
5 lot number is the same glove. So there can  
6 be -- some lot numbers have a tremendous  
7 amount of quantity that were given to  
8 Kitchen Winners and Joel Stern and Adorama,  
9 and some have a smaller quantity. But it  
10 can be very easily ascertained.

11 The 11 ones that we sent out  
12 all failed. And there are 8 or 11  
13 different lot numbers, 9 or 11 different  
14 lot numbers.

15 And then -- and then the ones  
16 that Ascension sent out, they all failed as  
17 well.

18 Q Well, I have not seen testing  
19 reports for 11 gloves by you. What type of  
20 testing was done on those 11 gloves?

21 A I don't even -- that's for  
22 Phillip to answer. I don't - I don't know  
23 why you would see any of these.

24 Q You're claiming that the  
25 testing proves that the gloves were not up

1 GILLING

2 to par. I, of course, need to see those  
3 reports, but I don't think I've seen more  
4 than 11 gloves being -- do you know what  
5 type of testing you performed?

6 A The recommended testing by  
7 Acumen for ASTM D63, or D6319.

8 MR. FRISCH: This will be  
9 Exhibit D.

10 (Whereupon, a invoice was  
11 marked as Third-Party Defendants'  
12 Exhibit D for identification, as of  
13 this date, by the reporter.)

14 Q Are you familiar with this  
15 invoice?

16 A Can you identify that, and?

17 Q This is identified as Exhibit D

18 --

19 A Is this -- is this Mrs. Li?

20 MR. RAKHUNOV: Hang on, Brad.  
21 Hang on.

22 You got to tell us where this  
23 came from in the record. I need to  
24 be able to know what --

25 MR. FRISCH: This is your Bates

1 GILLING

2 number 2051. In the chats.

3 MR. RAKHUNOV: And just so you  
4 know, that's not our Bates number.  
5 That's how the documents were  
6 numbered by WhatsApp. So we didn't  
7 -- the only Bates number was the  
8 name of the chat file, so if you  
9 can tell me where that came from.

10 MR. FRISCH: I believe this is  
11 from the Mrs. Li chats. But again,  
12 you'll see, those numbers, you  
13 know, these numbers that WhatsApp  
14 uses are on everything, so they're  
15 just as good as a separate Bates  
16 number anyway.

17 Q Okay. Are you familiar with  
18 Practice Protection, LLC?

19 A Vaguely.

20 Q Is that Ms. Li's company?

21 A I'm not sure.

22 Q Do you see here, it says  
23 consulting for 90,000 MedCare medical  
24 gloves, 2 percent at \$15 a box? Do you  
25 know what that was for?



1 GILLING

2 A I would assume the first 90,000  
3 boxes we bought from JNS.

4 MR. RAKHUNOV: Don't assume.  
5 Just what you know.

6 A I don't know. I don't know.

7 Q I want to go back to sharing  
8 the chat with Ms. Li.

9 On 3/24 at 12:03. Do you  
10 recall this offer? Ms. Li, Bruno has a few  
11 containers of MedCare gloves on the ground,  
12 all 10/40/40/10. This offer is \$13.50. I  
13 told them we are not buying anything above  
14 \$12.50. He said he could negotiate with  
15 the sale of nitrile. Do you want -- do we  
16 want them if he can get them for 12.50.

17 Do you recall that?

18 A I don't.

19 Q So you don't know if you ever  
20 bought these gloves?

21 A I don't know.

22 I don't -- I don't think we  
23 bought anything from Bruno.

24 Q Do you remember purchasing  
25 YaniMed gloves in April 2021?

1 GILLING

2 A Yup.

3 Q Were those fake?

4 A Yup.

5 Q Who sold them to you?

6 A I'm not sure. It was a broker.

7 It was a group out of California, I think.

8 Q Who introduced you to those  
9 people?

10 A I don't know.

11 Q But it wasn't Mr. Stern,  
12 correct?

13 A I don't know.

14 Q And it wasn't JNS?

15 A I don't know.

16 Q And it wasn't the Adorama folks  
17 either.

18 A You're -- I'm getting confused  
19 with your questions because you're making  
20 statements. They're not --

21 Q Did any of the individuals  
22 involved in this lawsuit sell you the  
23 YaniMed gloves?

24 A Not that --

25 MR. RAKHUNOV: Objection.

1 GILLING

2 A Not that I'm aware of.

3 Q Were those gloves also  
4 delivered to MedLine?

5 A I don't think so.

6 Q So how did you --

7 A We stopped -- we stopped them  
8 before they got there.

9 Q How did you catch those?

10 A I don't -- I don't recall. I  
11 don't recall. I know it got caught,  
12 though. I think the way it got caught were  
13 samples, I think, because I had those at my  
14 house. I think the samples finally arrived  
15 at my house and I -- I inspected them, put  
16 them on. They were breaking. They were --  
17 they weren't what they were supposed to be.  
18 And that's how we stopped it before it  
19 arrived to our plant.

20 That's my recollection. I'm  
21 not -- I believe that's how it happened.  
22 We literally stopped our truck. Anna  
23 picked them up and returned them.

24 Q Did you ever test any of the  
25 gloves that you alleged had stickers over

1 GILLING

2 the word protection?

3 A I'm not sure. But we're going  
4 to get them tested.

5 Q Okay. So you don't know if  
6 those gloves were, in fact, actually  
7 examination gloves.

8 A None of the gloves that we got  
9 passed an examination glove test. Not one.

10 Q Well, you only tested 11, 11  
11 boxes out of like 200 million boxes, right?  
12 You can't possibly say that not a single  
13 glove -- you don't -- you don't have the  
14 basis to make that conclusion. You didn't  
15 test all the gloves.

16 A I'm going to reiterate to you  
17 again, because you like talking over and  
18 making up stuff. I said we pulled 11 lots.  
19 And there were only so many lots. I think  
20 out of the total amount of lots, it's under  
21 20. So we tested over -- my recollection  
22 is over half the gloves and likely more  
23 than that to -- and they all have tested  
24 with either zero nitrile content or very  
25 little nitrile content, and none of them

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GILLING

passed the STMD-6319 [sic] testing and are not suitable for a hospital. None of them.

MR. FRISCH: I'm going to call for production of all those testing reports because we have not -- I have not seen 11 test reports related to 11 lots. I have seen three chemical tests, of which one passed and two failed, and I have seen eight stretchy tests, and that's it. So I am going to call for production of those tests.

MR. RAKHUNOV: We'll take your request under advisement and we will get back to you.

Q Do you believe that Mr. Stern actually placed the stickers on the boxes personally?

MR. RAKHUNOV: Objection.

Asked and answered.

A I don't have knowledge of that.

Q Do you have any idea how many gloves were actually used at Ascension hospitals?

1 GILLING

2 A That's a question for them.

3 Q Did you make any effort to  
4 convince Ascension that they were wrong  
5 about their conclusions on the gloves that  
6 they had received?

7 A Yes.

8 Q What steps did you take?

9 A Well, we took numerous steps.  
10 You know, we went to the warehouses, we  
11 pulled gloves, we pulled samples. We met  
12 with them in person at a hospital in the  
13 south. I think it was outside Indianapolis  
14 or, I'm not sure, Grays Lake, maybe. We  
15 met in a hospital and we had a meeting  
16 with, you know, the executives at Resource  
17 Group, and, you know, including the head of  
18 the department who came in with the gloves  
19 and pulled them on one after another as  
20 they were breaking. We gave them at that  
21 meeting the testing reports that Anna from  
22 MedCare gave us, which was a stack of  
23 reports that was about four inches high  
24 printed off. And we went there to, you  
25 know, say hey, these gloves are fine.

1 GILLING

2 After the nurse, head of  
3 nursing was pulling them out one after  
4 another breaking, breaking, breaking,  
5 breaking, with different lots, so it was  
6 from there that we left and took the  
7 samples we had, had them tested, you know,  
8 to found the same conclusion. And that's  
9 the first -- you know, along that process  
10 is where we saw a mass quantity of  
11 protection gloves that we -- we didn't  
12 purchase that were scattered all over the  
13 warehouse.

14 Q Didn't you have doubts about  
15 MedLine's performance in counting and  
16 organizing the gloves as they were being --

17 MR. RAKHUNOV: Objection.

18 A Not that I -- we were -- we  
19 were -- had very good relationships with  
20 MedLine and their whole team. And it was  
21 -- we had a really good relationship up  
22 until the Kitchen Winners/Adorama. You  
23 know, it started with Joel Stern with the  
24 bad sizes going in, because our client  
25 didn't want those.

1 GILLING

2 So we were starting to upset at  
3 that time. And it just got worse and worse  
4 by shorting them and having them discover  
5 we were shorting them. And that wasn't our  
6 intention to short them.

7 Q All right. So showing you  
8 here, I think we're up to Exhibit E. This  
9 is your chats with Alex King.

10 (Whereupon, WhatsApp texts were  
11 deemed marked as Third-Party  
12 Defendant's Exhibit E for  
13 identification, as of this date, by  
14 the reporter.)

15 (Whereupon, a short recess was  
16 taken.)

17 Q Do you recall this conversation  
18 with Alex King on April 23, '21, starting  
19 at 10:22 a.m. and 29 seconds.

20 Alex King: MedLine is a mess.  
21 Nobody picks up the phone. Drivers can't  
22 get the pod when picking up the empty  
23 trailer yesterday because the pod is with  
24 the previous shift. All I have been doing  
25 is trying to get this pod from MedLine this



1 GILLING

2 morning.

3 First of all, what's a pod?

4 A It would be a trailer full of  
5 stuff.

6 Q And then you responded: I  
7 don't like doing things this way. We need  
8 our guy there when they count and unload.

9 Alex King: Me neither.

10 Brad: We stem to be screwed.

11 Alex King: They don't let us.

12 Brad: They have to. There is  
13 no checks and balance.

14 Alex King: They make us either  
15 drop the trailer and come back the next day  
16 to pick up the empty or tell us to come  
17 back next week.

18 Alex King: Okay. I just  
19 copied you in an e-mail. Talk to Vince.  
20 We need a better system.

21 So do you recall this  
22 conversation?

23 A Yes.

24 Q So you tell us now MedLine had  
25 a great system, but here in the thick of it

1 GILLING

2 you were saying MedLine had a terrible  
3 system, that you needed to be present, you  
4 needed a voice present to count with them.

5 MR. RAKHUNOV: Objection. It's  
6 not what it says.

7 A That's not what it says at all,  
8 but --

9 Q Why don't you --

10 A It doesn't even come remotely  
11 close to saying that.

12 Q Tell me what you meant.

13 A It's we need a system to verify  
14 what Stern and JNS or Adorama or whoever is  
15 sending in, to verify what they're sending  
16 in. And we need to find a system to verify  
17 what they're telling us they're sending.  
18 So I'm trying to get a system in place to  
19 do it that's outside of the COVID protocol  
20 of us not seeing it.

21 Secondly, this is COVID, man.  
22 You -- as an attorney, you have no idea of  
23 what was going on. These places were --  
24 you had to get a slot. You had to get a  
25 time frame. And you only had that time

1 GILLING

2 frame to work in when you delivered your  
3 truck. If you miss it based on trucking,  
4 delays, whatever, your pod was going in a  
5 trailer in the parking lot and it would be  
6 unloaded when they got to it in the next  
7 slot that was open. It was -- when I'm  
8 saying it's a mess, it's a mess because the  
9 industry is a mess. MedLine was -- was  
10 very efficient in what they were doing.  
11 They would have trucks backed up, lined up  
12 for PPE product coming into their warehouse  
13 and going out.

14 So you're talking about -- and  
15 everything, you know, everything that  
16 happens inside that warehouse on MedLine's  
17 side is very buttoned up for tracking  
18 purposes.

19 Q It's critical -- you wrote:  
20 It's critical we get paid. We can't do  
21 things this way. It throws off our cash  
22 flow.

23 What are you referring to?

24 A I'm referring to when we send  
25 in gloves that -- when we send in and look

1 GILLING

2 to get -- so we -- we get a Bill of Lading,  
3 and we would invoice. We were -- we had  
4 become a rinse and repeat type of  
5 organization. We had to get money in to  
6 turn around and pay it out to buy more  
7 product.

8 So when we were getting shorted  
9 on trucks, when we were getting sizing that  
10 was wrong, it was delaying our process in  
11 getting paid. I would get a call by Vince  
12 and, Vince would say hey, your sizing is  
13 all screwed up. You know, you got to fall  
14 in line with what we're requesting. The  
15 trucks have to come 10/40/40/10, blah,  
16 blah, blah, and that would just start a  
17 domino effect of us getting paid timely to  
18 turn around and buy new product.

19 Q You had a problem with Joel  
20 Stern's delivery on the first order; is  
21 that correct?

22 A I don't recall.

23 Q The sizing, right, early on.

24 A Yeah.

25 Q Yet you continued to purchase

1 GILLING

2 from him; isn't that correct?

3 A That's correct.

4 Q Why?

5 A Because he said he was going to  
6 make it right.

7 Q Did he?

8 A I don't recall.

9 MR. RAKHUNOV: Objection.

10 Q Now, in general, were MedCare  
11 gloves known for being high quality?

12 MR. RAKHUNOV: Objection.

13 A I don't know.

14 Q Weren't you still talking to  
15 Mr. Stern in August 2021 about purchasing  
16 gloves?

17 A Is there more to that sentence?  
18 You said "uh" after?

19 Q Not yet.

20 A I don't recall.

21 Q Didn't you have discussions  
22 with Mr. Stern after you supposedly  
23 discovered quality issues in July?

24 A Yeah, I would have discussions  
25 with him.

1 GILLING

2 Q About purchasing additional  
3 gloves?

4 A About what?

5 Q About purchasing additional  
6 gloves.

7 A I don't -- I don't recall. And  
8 if it was about that, it would have been  
9 replacing gloves.

10 Q Did you blame the issues with  
11 the gloves solely on JNS to the exclusion  
12 of the Adorama parties when you were  
13 talking to Arik Maimon?

14 A I have no idea what you're  
15 talking about. I don't recollect what  
16 you're -- do you have a certain document  
17 you would like to point to?

18 Q Not at the moment.

19 Did you have discussions with  
20 Arik Maimon about the glove issues?

21 A Absolutely.

22 Q And did you tell him that the  
23 gloves were all -- all the problem gloves  
24 came from JNS?

25 A All of the problem gloves came

1 GILLING

2 -- I don't -- if -- I don't know. And if I  
3 did that, that would have been the evidence  
4 I would have had at the time.

5 This was a -- this was the  
6 onion was peeling, you know, very rapidly  
7 in this thing.

8 Q So Joel asked you on August 4,  
9 2021 if you needed more MedCare gloves, and  
10 you responded that you were not sure.  
11 Didn't you?

12 A I have no idea. You know,  
13 we're playing a cat and mouse game. If you  
14 want to put something up on the screen and  
15 ask if I -- if this is a chat that I had  
16 with him, I'd be happy to do that. But it  
17 seems like --

18 Q I will --

19 A I keep saying no. I'm going to  
20 keep saying no to you unless you produce a  
21 document because it's two and a half years  
22 ago.

23 Q Well, let me walk you through  
24 how this works. I ask the questions the  
25 way I want to ask them. You answer the

1 GILLING  
2 questions to the best of your recollection.  
3 If you don't remember, you don't remember.  
4 If I decide to put an exhibit in front of  
5 you, then you get to look at the exhibit.  
6 You dont get to demand what I do.

7 That being said, I am going to  
8 put this up. Okay? But I sometimes like  
9 to ask you the questions before I show you  
10 the proof. So, but now with my  
11 explanation; I don't answer your questions,  
12 and you don't get to decide how I --

13 MR. RAKHUNOV: I think,  
14 Counsel, I think you've made your  
15 speech now. I think we can move on  
16 with the deposition.

17 MR. FRISCH: No. I think he  
18 made --

19 MR. RAKHUNOV: And I've let you  
20 make your speeches. You're asking  
21 unfair and misleading questions. I  
22 understand you are trying to trap  
23 him in a tricky way. We've all  
24 been doing this for many years, but  
25 --



1 GILLING

2 MR. FRISCH: Nobody is trying  
3 to trap him. I'm trying to get the  
4 truth, which so far we haven't  
5 gotten.

6 MR. RAKHUNOV: We haven't  
7 gotten what you want to hear.  
8 That's -- that's the difference,  
9 but --

10 MR. FRISCH: No. That's where  
11 you're wrong. That's where you're  
12 wrong.

13 What makes you think I haven't  
14 gotten what I wanted to hear? You  
15 can say it, but it ain't true.

16 All right. All right. Now I'm  
17 going to share this.

18 THE WITNESS: Five o'clock's  
19 rolling up.

20 MR. FRISCH: We get done when  
21 we get done.

22 THE WITNESS: Seven hours.

23 MR. FRISCH: Well, seven hours  
24 does not include the breaks.

25 MR. RAKHUNOV: Just move on.

1 GILLING

2 But it certainly includes your  
3 speeches, so --

4 MR. FRISCH: I agree. We  
5 agree. Don't worry, we're getting  
6 there. We're getting done. Okay.

7 Q So on 8/4/21, did Joel Stern  
8 text you: By the way, are you going to  
9 need more MedCare or Synguard?

10 And did you respond: Don't  
11 know yet?

12 A Yep.

13 Q Well, why didn't you just say  
14 no, your gloves are terrible. I'm not  
15 buying from you anymore?

16 A Because Synguard's a different  
17 brand than MedCare. Synguard is made by a  
18 different company and are -- and they're  
19 very reputable. They're an INTCO glove and  
20 we -- we had a direct contract with INTCO  
21 on masks. And I was curious to see if he  
22 could get INTCO gloves for cheaper than we  
23 could buy direct.

24 Q But if you didn't trust him at  
25 that point, why didn't you just say no?

1 GILLING

2 A That's not -- I don't have any  
3 opinion of that.

4 Q Well, meaning if the guy sold  
5 you bad gloves --

6 A Listen; I don't --

7 MR. RAKHUNOV: Let him finish  
8 the question.

9 A I have no opinion on it.

10 Q I didn't ask that question yet.

11 If the guy sold you bad gloves,  
12 wouldn't your reaction have been go away;  
13 I'm never buying anything from you?

14 A No.

15 Q Why not?

16 A Keep your enemies close to your  
17 chest. It's all just part of how I  
18 operate. So it's fine. He got what's  
19 coming to him. Which is he committed fraud  
20 against us and now we're in this.

21 Q Did you receive any testing  
22 reports on the gloves Mr. Stern sold you --

23 MR. RAKHUNOV: Asked and  
24 answered.

25 Q -- from --

1 GILLING

2 MR. FRISCH: No, it isn't.

3 A Say it again?

4 Q Did you receive testing reports  
5 in regard to the gloves --

6 A You were muffled again at the  
7 beginning. Say it again.

8 Q Did you receive testing  
9 reporters on the gloves Mr. Stern sold you  
10 in February of 2021?

11 A I don't remember what Joel sent  
12 over or what Joel sent to Mrs. Li and what  
13 we received, but we would have received,  
14 you know, some sort of packet of what the  
15 gloves were. That was detailing that it  
16 was a examination glove that we would  
17 provide to Ascension that would have  
18 allowed us to buy them. We went through  
19 their procurement area, which we would have  
20 sent all that reporting along.

21 Q This document, again, was  
22 provided to us by you in one of the chats.  
23 Do you recall receiving this document?

24 A I don't -- I'd have to see the  
25 document in its entirety.

1 GILLING

2 Q I'd be happy to scroll down.

3 Does this look familiar to you?

4 A Well, Akron Rubber is who we  
5 contracted.

6 Q Okay.

7 A So that's not -- that test up  
8 there isn't the test that -- this is not a  
9 test for ASTM D6319, as you can go up to  
10 the top and look at.

11 Q What is this a test for?

12 A Well, scroll back up and you  
13 will see it. You already passed it. Keep  
14 going. Keep going.

15 Q I see it. All right. So what  
16 is this test for and why was it provided to  
17 you?

18 A It's a --

19 MR. RAKHUNOV: Objection.

20 Compound.

21 A It's a permeation testing. It  
22 says right here. It can be in the  
23 evidence. It says exactly what it is.

24 Q And the gloves passed the test,  
25 it says, right?

1 GILLING

2 A It's for permea -- it's not --  
3 it's not for ASTM D6319.

4 Q At any point in time did --

5 A This is for -- if you read it,  
6 this is for --

7 MR. RAKHUNOV: Brad, there's no  
8 -- there's no question.

9 A Okay. Yeah, there's no  
10 question. That's not what this test was  
11 for.

12 Q At any point in time did Mr.  
13 Stern represent to you that the gloves met  
14 a particular ASTM standard?

15 A Yes.

16 Q When?

17 A From the onset when we were  
18 buying. We had to have examination grade  
19 ASTM D6319, with 510-K. We had to have  
20 that. They were going into hospitals.  
21 They were not -- these weren't janitor  
22 gloves.

23 Q But did he say to you that  
24 these gloves --

25 A Yes.

1 GILLING

2 Q Did he say that in writing?

3 A Did he say it in writing?

4 Well, no, because it would be hard to say  
5 it in writing. Did he put it in writing?  
6 Maybe. I don't know. We would have to  
7 look at all the chats and all the e-mails.  
8 It's very possible he did because he gave  
9 documents to Mrs. Li, she sent them to us,  
10 we sent them to our client, and in those  
11 documents I believe were checking the boxes  
12 and alluding to these being examination  
13 grade gloves.

14 Q And those testing reports, you  
15 don't know if they're false, correct? You  
16 just assume they're false.

17 MR. RAKHUNOV: Objection. What  
18 testing reports?

19 MR. FRISCH: Yeah, the testing  
20 reports he just referenced that he  
21 got from the package from China.

22 MR. RAKHUNOV: From -- from  
23 your client?

24 A Show me what you're alluding  
25 to. I can't tell --

1 GILLING

2 Q I don't think I intended to use  
3 it, but I'm going to show it to you because  
4 maybe it will help us get to somewhere.

5 I'm just going to show you one  
6 as an example, not -- not to go through all  
7 of these.

8 Did you receive reports similar  
9 to these prior to purchasing the gloves?

10 A No.

11 Q Do you know if these reports  
12 are false?

13 MR. RAKHUNOV: Objection.

14 A I would have to read it very  
15 detailed about what the standard is and  
16 what they're doing.

17 Q Do you recall an individual  
18 named Avi from whom you purchased gloves?

19 A I think there's an Avi in  
20 Florida. Is he in Florida?

21 Q You tell me.

22 A I don't know.

23 Q What did you guys buy from him?

24 A I don't know who Avi is.

25 Q All right. Well, let's go back



1 GILLING

2 to the chat with Alex King. I don't recall  
3 what number we -- what exhibit we called  
4 this.

5 MR. RAKHUNOV: I actually don't  
6 remember it being marked. But  
7 maybe I was not listening, but --  
8 it might have been D? I'm not  
9 sure.

10 MR. FRISCH: It might be D.  
11 We'll figure it out at the end.

12 Q So do you recall -- reading the  
13 chats, and I'll give you a minute to read  
14 these, from -- do we know who this is --  
15 what gloves is this talking about?

16 A Yes. I think that's Avi out of  
17 Florida.

18 Q What type of gloves were you  
19 buying from him?

20 A I don't recall.

21 Q Did you by any?

22 A ASTM D69 -- 6319 gloves. Yeah.

23 Q Were those MedCare gloves?

24 A No.

25 Q Were those gloves provided to

1 GILLING

2 Ascension?

3 A Yes.

4 Q Were there any quality issues  
5 with those gloves?

6 A No.

7 Q You didn't like Avi very much,  
8 did you?

9 A Nope.

10 Q Why not?

11 A I didn't like him. He's a  
12 jerk.

13 Q You didn't like him because  
14 he's Jewish?

15 MR. RAKHUNOV: Objection.

16 MR. FRISCH: Why? What's your  
17 objection? He said it. He called  
18 him a typical, aggressive,  
19 fast-talking Jewish guy.

20 A Yeah, what's that have to do --  
21 that's not saying I don't -- and I don't  
22 like him anyways.

23 Q Oh. So --

24 A I don't like typically  
25 aggressive fast-talking people.

1 GILLING

2 Q Oh. You didn't -- you don't  
3 like him because he's a Jew from New York,  
4 like Alex King called him, right?

5 MR. RAKHUNOV: Objection.

6 A Alex is from New York. That's  
7 right.

8 Q So you're saying Alex didn't  
9 dislike Jews from New York because he's  
10 from New York? Is that --

11 A I didn't say anything. Alex  
12 King said he's a Jew from New York. What's  
13 the big deal? I'm a Catholic boy. You  
14 know. I don't -- I don't like fast-talking  
15 Catholic boys.

16 Q Well, you didn't write that.  
17 You could have -- you could have just  
18 called him a typical aggressive  
19 fast-talking guy. What's -- why didn't you  
20 write that?

21 A Jewish isn't a derogatory term.

22 Q It is in the context in which  
23 you used it.

24 A No, it's not.

25 MR. RAKHUNOV: It's -- it's

1 GILLING

2 irrelevant.

3 MR. FRISCH: This is very  
4 relevant. It goes to his  
5 credibility here.

6 THE WITNESS: What? What are  
7 you talking about? This is a deal  
8 that I did that has nothing to do  
9 with you. Next chapter.

10 Q Well, you mean -- all right.

11 MR. RAKHUNOV: Brad, I don't  
12 know if I can represent you  
13 anymore. I'm a fast-talking Jewish  
14 guy too.

15 THE WITNESS: My attorney's  
16 Jewish.

17 Q You mentioned before you were  
18 getting paid a percentage of the deal. Did  
19 you ever get paid for the Kitchen Winners,  
20 Adorama, and Joel Stern deals?

21 A No.

22 Q Why didn't you pay Alex King  
23 his money?

24 MR. RAKHUNOV: Objection.

25 A We paid Alex King millions of

1 GILLING

2 dollars.

3 Q Why did you leave him hanging  
4 on his last \$45,000?

5 A That's not mine. That's a  
6 question for Tommy Kato, not me.

7 MR. RAKHUNOV: Objection.

8 Q Was that money ever paid?

9 A I have no idea.

10 Q Do you have any proof that  
11 Ascension refused to pay you money when  
12 things got messed up?

13 A Yes. We weren't paid money,  
14 correct.

15 Q Well, do you have any --

16 A The money hitting the bank  
17 account would be the proof.

18 MR. FRISCH: So I'm going to  
19 call for production of all the bank  
20 records that prove this point.

21 MR. RAKHUNOV: We produced  
22 relevant bank transfers, and you're  
23 not getting the entire wholesale  
24 bank records of my client. But if  
25 there is something that you think

1 GILLING

2 is missing, we can talk about it.

3 I think the witness just said there  
4 was no payment, so that's the whole  
5 point.

6 Q Do you recall the name Thomas  
7 Marian?

8 A I do not.

9 Q Did you buy any MedCare gloves  
10 sourced by Ms. Li in November 2020?

11 A I don't know.

12 Q Do you know an entity called  
13 MV3PL?

14 A Yeah. Do you know what that  
15 is?

16 Q I do not. That's why I'm  
17 asking you.

18 A It's likely where your client  
19 housed gloves. 3PL is a third party  
20 storage house.

21 Q Right, but I was asking about  
22 MV3PL which is referenced in all of your  
23 documents.

24 A That would be where they stored  
25 gloves. That would be the name of the 3PL.

1 GILLING

2 I would say likely your client is 3PL.

3 Q Did you -- so it's your  
4 testimony you never bought MedCare gloves  
5 from anybody other than the parties to this  
6 lawsuit, right? That was -- that was your  
7 prior testimony.

8 A Correct.

9 Q Do you recall who Sourcing  
10 Connection LLC is?

11 A No. I saw them on document --  
12 on a document for sure. And it was one  
13 tied to Joel Stern.

14 Q Do you know who Zhonghong Pulin  
15 Medical is?

16 A Well, if you're pronouncing  
17 that right, which you are not, because it's  
18 -- it's -- it wasn't even close, but that  
19 would be one of the manufacturers of  
20 MedCare gloves would be my -- my  
21 assumption, but I would have to see that  
22 based on how you pronounced it.

23 Q Okay. You know what; can I put  
24 it in the chat so you can see it?

25 A Yeah. Put it on the screen

1 GILLING

2 here.

3 Q I don't want to -- I'll put it  
4 in the chat. One second. I don't want to  
5 --

6 All right. Do you see the  
7 spelling of it? It's there in the chat.

8 A I don't know where the chat is.  
9 I don't know what you're talking about.

10 MR. RAKHUNOV: Look at the  
11 bottom of the screen, at least on  
12 my computer. There is a -- it's  
13 hard to see when there is a screen  
14 share happening, but there is a  
15 chat box.

16 THE WITNESS: Well, I don't --  
17 I know what that name is, but I  
18 don't know if that's one of the --  
19 MedCare sourced from three  
20 difference companies. And  
21 Zhonghong is a province in China,  
22 and Pulin is a very common name  
23 over there as well. So I don't  
24 know if that's exactly specific to  
25 one of the glove types that they



1 GILLING

2 were sourcing from or if it's a  
3 whole different company, through  
4 its attorney.

5 MR. RAKHUNOV: They're not.

6 Q Okay. I'm going to share it  
7 quickly, just to make sure we know that  
8 we're talking about the same place. Can  
9 you see it now?

10 A No.

11 Q I've made it bigger. Try.

12 A I can see it in your chat here.

13 Q Okay, so you see it.

14 A Yeah, what are you -- what -- I  
15 just told you I did.

16 Q Okay, you told me. All right.  
17 I wasn't sure if you knew what we were  
18 talking about. That's why I just wanted to  
19 make sure we're talking about the same  
20 thing.

21 Did Miss Li ever offer you  
22 gloves from that manufacturer?

23 A I don't know. I would have to  
24 know what the brand name is that -- that  
25 would be the brand -- there would be a

1 GILLING  
2 brand name associated with them.  
3 Manufacturers from China don't throw  
4 Zhonghong Pulin on a box and try and sell  
5 it to Americans. It just wouldn't sell.  
6 So there is some sort of goofy name  
7 associated with gloves, be it YaniMed or  
8 MedCare or whatever it is. But that's -- I  
9 wouldn't know specifically other than I've  
10 seen that company's name.

11 Q Can you see this now? The Ms.  
12 Li chat is back up. Okay. So you see she  
13 offers you on 4/8/21 at 5:56 a.m. Zhonghong  
14 Pulin, and, again, I agree I do not know  
15 how to pronounce that, and she -- this is  
16 what she offers you. Did you buy those?

17 A I don't -- I don't -- no. At  
18 that time? No.

19 Q Are you familiar with an  
20 individual named Brendan?

21 A Yes.

22 Q Who was that?

23 A It's a broker out of Los  
24 Angeles.

25 Q Was he the one who sold you the

1 GILLING

2 YaniMed gloves?

3 A I don't know if Brendan did, or  
4 Brandon. I don't recall. I mean, I'm sure  
5 there's documents out there when we bought  
6 those.

7 Q I'm showing you an invoice that  
8 was within your production. It looks like  
9 it's number 2279 in the Ms. Li chat  
10 attachments. Are you familiar with this  
11 invoice?

12 A I am not.

13 Q Do you know if you ever bought  
14 these gloves?

15 A I don't know what gloves they  
16 are. It doesn't say the brand, but no.  
17 We -- we bought YaniMed gloves before we  
18 bought -- in the original contracts we  
19 bought INTCO gloves is what we initially  
20 delivered to our clients.

21 I don't know what glove this  
22 is. I don't -- I don't know what --

23 Q Okay. Are you familiar with  
24 Commercial Group International, Inc.?

25 A I am -- I don't recollect that.

1 GILLING

2 And this could be the YaniMed gloves that  
3 we bought and returned. It could be them.

4 Q Do you -- I apologize because  
5 the file name said 90,000 MedCare. Do you  
6 know how that -- let me share it again. I  
7 just realized that was why I wanted to ask  
8 about this.

9 Do you see 90,000 MedCare at  
10 the top here?

11 A Yup.

12 Q Do you know where that came  
13 from? It says MedCare in the -- in the  
14 description here.

15 A Yep.

16 Q So doesn't this -- isn't this  
17 evidence that you bought 90,000 MedCare  
18 gloves from this Commercial Group  
19 International?

20 A Yeah, we -- no, it's not  
21 evidence. We didn't buy those.

22 Q Then why is there an invoice  
23 for it?

24 A That's somebody invoicing us to  
25 buy them. We didn't -- we didn't buy them.

1 GILLING

2 I mean, not that I can recollect. I mean,  
3 that could have been -- you can ask Tommy  
4 that same question.

5 Q I probably will.

6 A Yeah. I don't -- not that I  
7 recollect.

8 Q Okay. I'm going to share a  
9 video. I don't know how that works, but  
10 we're going to try.

11 MR. FRISCH: Does anybody know  
12 if Zoom actually works to share  
13 videos?

14 MR. RAKHUNOV: I'm not sure.  
15 Can you identify what you're --

16 MR. FRISCH: This was also in  
17 the Miss Li chat identified as  
18 document 1175, video dated 2/9/21.  
19 I don't know if that's the video or  
20 the time it was sent in the chat.  
21 But here we go.

22 Can you all see it?

23 (Whereupon, a video was  
24 played.)

25 Q Are you familiar with this

1 GILLING

2 video?

3 A I am.

4 Q Do you know who is the one  
5 doing this testing?

6 A I think it's Ms. Li.

7 Q So she tested them before you  
8 bought them; is that correct?

9 A She went and physically  
10 inspected those.

11 Q And they don't appear to be  
12 tearing, do they?

13 A Well, she is trying on an extra  
14 large glove that doesn't fit her hand.  
15 It's not -- you know, that's -- that's a  
16 little bit more smoke in mirrors with maybe  
17 working in conjunction with Joel Stern  
18 because that's not the kind of glove you  
19 would -- that's not the size glove you put  
20 on when you're in a hospital.

21 Q So you're saying the person you  
22 -- that your company paid to represent you  
23 in a transaction was working with Joel  
24 Stern to defraud you. That's your now,  
25 your current allegation?

1 GILLING

2 MR. RAKHUNOV: Objection.

3 A You just said that, but I  
4 didn't say that.

5 Q You said it's smoking mirrors;  
6 she did with Joel Stern.

7 A That's not right. That's not  
8 what I said. I said smoke in mirrors,  
9 correct. Exactly.

10 MR. RAKHUNOV: You want to find  
11 out?

12 A Yeah, we're going to find out.  
13 But that is -- that is the wrong size glove  
14 she's pulling on, number one. It's like a  
15 OJ type of thing. It's a ginormous glove  
16 going on a little hand.

17 Secondly, in -- in my knowledge  
18 now that I have in gloves, the nitrile  
19 glove will extend past your elbow if it's  
20 real. She is stretching that and it's  
21 barely coming past her wrist. You know,  
22 which is a telltale sign if we give this to  
23 Akra Rubber, that they would look at that  
24 video and say these gloves are not nitrile  
25 examination gloves. Which is amazingly on

1 GILLING

2 this video because I had forgotten about it  
3 and it will be more -- they will be able to  
4 evaluate that video with their own eyes as  
5 experts.

6 Q Well, I will await to hear  
7 their expert testimony.

8 A Yes. Me too. Thank you for  
9 showing it.

10 Q Okay. Now it's your testimony  
11 you don't really trust Ms. Li either; is  
12 that correct?

13 MR. RAKHUNOV: Objection.

14 A I didn't -- I didn't testify  
15 that I don't trust Ms. Li.

16 Q Did you buy these gloves on  
17 April 30th of '21? Did you buy this off  
18 her?

19 A Is that from Joel Stern?

20 Q No. This is from Ms. Li. This  
21 chat is all Ms. Li.

22 A Well, Ms. Li sold us products  
23 of Joel Stern's.

24 Q Look at the date. April 30,  
25 2021.



1 GILLING

2 A No. We didn't buy it.

3 Q Why not?

4 A Well, I would assume we were  
5 entering into a contract with Kitchen  
6 Winners and Adorama, who held themselves  
7 out as the direct source of MedCare gloves.

8 Q Do you know what that Emoji  
9 means?

10 A What?

11 Q Do you know what that Emoji  
12 means?

13 A No.

14 MR. RAKHUNOV: Objection.

15 A What is it?

16 Q That's what I'm asking. Do you  
17 know what Tommy --

18 A I can't even see it.

19 Q That I can't help you with. I  
20 can help you a little bit to make it  
21 bigger, but --

22 It's a face with a thumbs up.

23 But you don't know what he meant by it.

24 Okay.

25 A There's a thumbs up in there?

1 GILLING

2 MR. RAKHUNOV: I don't know  
3 what that means either.

4 MR. FRISCH: I believe it's a  
5 thumbs up. I don't know what  
6 Emojis mean either. I'm not -- I'm  
7 too old for that.

8 MR. RAKHUNOV: Looks like, my  
9 eight-year-old might say that's a  
10 "hmm" Emoji.

11 MR. FRISCH: I don't know.  
12 That's what I'm asking.

13 MR. RAKHUNOV: Yeah. I don't  
14 know. For the record, Mr. Gilling  
15 is not the author of that text, so.

16 MR. FRISCH: That's why I was  
17 asking. That's why we were asking.  
18 He doesn't need to know that. See,  
19 that I know he doesn't. I'm not  
20 surprised he doesn't know that, but  
21 I'm still asking.

22 Q Okay. Do you see now what I've  
23 highlighted 6/11/21 from Ms. Li, another  
24 offer of 500,000 MedCare gloves for \$8.25  
25 in Los Angeles?

1 GILLING

2 A No.

3 Q Did you buy those?

4 A No.

5 Q Why not?

6 A 6/11/21 we were -- we were just  
7 wrapping up delivering the rest of our  
8 gloves to -- to -- to MedLine and  
9 Ascension.

10 Q Okay.

11 A We were -- we were done with  
12 the order. No, we didn't buy those.

13 Q How many times were you  
14 defrauded? Aside from this case, how many  
15 times were you defrauded by vendors of PPE  
16 during COVID?

17 A Well, unfortunately, several  
18 times.

19 Q Can you give me some details?  
20 What type of fraud? Was the stuff fake,  
21 were people taking your money, they weren't  
22 delivering in some way that, you know --  
23 what type of issues happened?

24 A All the above. What you just  
25 stated.

1 GILLING

2 Q So when you were buying from  
3 Mr. Stern and JNS, you should have been on  
4 the lookout for fraud by that point? You  
5 had already encountered fraud in other  
6 transactions?

7 MR. RAKHUNOV: Objection.

8 A We were -- the fraud that was  
9 committed to us was not on U.S. soil up to  
10 that point. The YaniMed gloves were the  
11 first ones that we bought domestically that  
12 were fake. When you -- what you're going  
13 to get into when you dive into testing of  
14 these gloves with Akron Rubber and their  
15 vast Rolodex of testing, you're going to  
16 find out there was a lot of problems with  
17 PPE, MedCare being one of them. They  
18 tested MedCare multiple times.

19 So -- so fraud was -- was  
20 unfortunately rampant, and we were stung  
21 outside of the country several times and  
22 then unfortunately stung here as well.

23 Q So when you say they tested  
24 MedCare many times, is that something they  
25 told you?

1 GILLING

2 A Yes.

3 Q And is the problem with the  
4 MedCare manufacturers?

5 MR. RAKHUNOV: Objection.

6 A I don't know.

7 Q I mean, did they tell you that  
8 MedCare often is fake?

9 MR. RAKHUNOV: Objection.

10 A Yeah. I don't -- I was told  
11 that they had tested MedCare gloves prior  
12 to us requesting them be tested.

13 Q And what was -- and did they  
14 tell you the outcome of those tests?

15 A No. They wouldn't -- we asked  
16 for those reports. They couldn't give  
17 them. They have a client, you know, what's  
18 the word I'm looking for. You know, they  
19 protect their clients. They wouldn't give  
20 us anybody's report. Just like we can  
21 share the report with you that we got, but  
22 they're not -- you call there and ask them  
23 for the reports we did, they're not going  
24 to give them to you.

25 Q They charge a lot of money for

1 GILLING

2 --

3 A Confidentiality, yeah.

4 Q They charge a lot of money.

5 They want -- they want everybody to pay --

6 A They do not charge a lot of  
7 money. It's very inexpensive to get those  
8 tests.

9 Q So your testimony here is they  
10 told you they tested them many times. Did  
11 they give you any indication as to -- not  
12 -- I understand they didn't give you a  
13 report. Did they give you any indication  
14 as to problems with MedCare gloves beyond  
15 the ones that are within this lawsuit?

16 A I -- I don't -- you're going to  
17 do your own homework on that.

18 Q You're alleging fraud by Mr.  
19 Stern, right, but maybe Mr. Stern is a  
20 victim of fraud from somebody in China.  
21 How do you know?

22 A The alleged fraud against Mr.  
23 Stern is giving us stickered boxes that we  
24 -- we refused to buy and he just put them  
25 on our trucks anyways to profiteer off of

1 GILLING

2 it. He bought those for a song and stuck  
3 them on us, 14, \$15 a box. So that's  
4 fraud.

5 Q If it happened.

6 A We're going to find out. He  
7 just didn't -- you know -- he didn't just  
8 show up at the warehouse off his truck, off  
9 the trucks that he loaded.

10 Q Going back to the Alex King  
11 chat. What am I looking for; 738. 6/16.  
12 That's not in this chat. Where the hell is  
13 it?

14 Do you recall buying gloves  
15 from somebody named Ido, I-D-O?

16 A Yeah.

17 Q What kind of gloves did you buy  
18 from him?

19 A INTCO.

20 Q And from Avi you also bought  
21 INTCO?

22 A No. I mean, some of it might  
23 have been INTCO, but no, they were -- they  
24 were a different brand.

25 Q At any point in time did

1 GILLING

2 Ascension ever tell you that they intended  
3 to continue working with Rock Fintek?

4 MR. RAKHUNOV: Objection. Time  
5 frame?

6 Q During the period you were  
7 buying gloves from the parties to this  
8 lawsuit.

9 A Yes. We -- we had a meeting  
10 with Dewayne. Tommy and I stood behind his  
11 desk and he showed us in his computer  
12 screen of their annual buy for the hospital  
13 and gave us all the intel on it to put a  
14 proposal in to, you know, to compete for  
15 their billion plus glove buy.

16 Q And did you put in a proposal?

17 A No. We were precluded from  
18 doing that because of the Adorama and  
19 Kitchen Winners ghoster.

20 Q When you entered into the  
21 contract in this case with -- for the 150  
22 million gloves or whatnot, didn't you not  
23 have a supply at all yet of gloves to give  
24 him?

25 A No. We started with -- we



1 GILLING

2 started with one or two contracts prior.  
3 One was for 25 million individual gloves,  
4 and then they upped it and then we were --  
5 you know, that's -- that order we were  
6 giving them Ido was supplying the gloves to  
7 us at that time. Ido was a trusted  
8 supplier of us for masks and other PPE  
9 products, and that was what graduated it to  
10 a 200 million order was because we were  
11 delivering when nobody else was delivering.

12 Q When you got the purchase order  
13 for the 200 million gloves, did you have  
14 the gloves available to you?

15 A We had -- we had two buying  
16 groups that we were sourcing the majority  
17 -- actually, we had three buying -- we had  
18 three groups we were sourcing our PPE from.  
19 The majority of it was Ido, a company  
20 called Bon-go-go, and -- and a Danny Li was  
21 a broker associated with us in China. And  
22 we were assured from, number one, Bon-go-go  
23 that we would be able to procure the gloves  
24 through them.

25 We sent a deposit to

1 GILLING

2 Kimberly-Clark and waited for gloves to  
3 arrive, and they didn't arrive. And we  
4 were able, fortunately, to get our money  
5 back. That was the first one, and that was  
6 procured by Bon-go-go at the outset of  
7 this. Then Ido was delivering us gloves  
8 prior to, you know, other sources that we  
9 brought in before we met Joel Stern.

10 Q And it's your testimony that  
11 you had the opportunity to bid on a billion  
12 glove order by Resource Group?

13 MR. RAKHUNOV: Objection.

14 A Yeah, it's -- that's -- we were  
15 showed by Dewayne -- we had an incredible  
16 working relationship that we had fostered  
17 with this plan, and we were delivering and  
18 he was -- we were working on that  
19 opportunity with Dewayne to put a proposal  
20 in. We never got to that step because of  
21 this.

22 Q Have you attempted to make any  
23 further sales to Ascension or the Resource  
24 Group since July 2021?

25 A Not sales. We tried to move

1 GILLING

2 these gloves out to dispose of them, and  
3 that fell through just recently.

4 Q Didn't you have other issues  
5 with Ascension over time? Wasn't there a  
6 point in time where you delivered 409,000  
7 unwanted gowns in the summer of 2020?

8 A No. That is not accurate.

9 We delivered the gloves, but  
10 they were definitely wanted. The way you  
11 phrased it sounds --

12 Q I said gown.

13 A Yeah, like, when you say  
14 unwanted glove -- gowns, no. The hospital  
15 wanted them. We gave it to them. We lost  
16 money on it and it was a good favor to  
17 them. And, you know, we also donated I  
18 think 10 or 12 million masks to charity.  
19 We had made to them for good will.

20 Q So do you recall --

21 A We did all sorts of good will  
22 things to protect our relationship there.

23 Q I notice -- well, you're not on  
24 this thread. I'll ask Thomas about it when  
25 we take his deposition. Let's move on.

1 GILLING

2 Because I do want to get done today.

3 This is the next thing I want  
4 to go to.

5 MR. FRISCH: Do you know what  
6 exhibit we're up to? I know we've  
7 been a little lax with numbering.

8 MR. RAKHUNOV: I want to say E,  
9 but I could be wrong.

10 (Whereupon, a letter was marked  
11 as Third-Party Defendant's Exhibit  
12 F for identification, as of this  
13 date, by the reporter.)

14 Q This is an e-mail -- this is a  
15 letter, I'm sorry, from Ascension's  
16 attorney to -- addressed to Tommy Kato.

17 Have you ever seen this before?

18 A I don't know.

19 Q Do you want to take a second to  
20 read it?

21 A You have to blow it up, please.

22 Q Oh, that takes it off the  
23 screen. I apologize. Is that good?

24 A Yeah. That's good, yeah.

25 Q All right. I'm going to

1 GILLING

2 scroll.

3 A Yeah. I have not -- I don't  
4 recollect seeing this, but I'll read it  
5 through. 3/6/19.

6 MR. RAKHUNOV: Brad, read it to  
7 yourself.

8 A Yeah. Okay. I read that.

9 Q Do you see the footnote? Tell  
10 me when you're ready to go to the next  
11 page.

12 A Yeah. It's not accurate,  
13 though, but go ahead.

14 Q Do you know if Rock Fintek and  
15 Ascension ever reached a settlement of this  
16 dispute?

17 A No, they have not.

18 Q Has Rock Fintek ever been sued  
19 by Ascension?

20 A No.

21 Q Do you know why not?

22 MR. RAKHUNOV: Objection. Let  
23 me just -- let me just pause you  
24 there. To the extent that there is  
25 anything that could have to do with

1 GILLING

2 a potential answer that came from  
3 me or, you know, I guess any other  
4 lawyer that represents you or Rock  
5 Fintek, I am going to instruct you  
6 not to answer. But if you have any  
7 knowledge from any source other  
8 than from privileged discussion,  
9 then you're welcome to answer that  
10 question.

11 A I would look at statute of  
12 limitations is all I would say.

13 Q So it's your understanding that  
14 the statute of limitations has passed on  
15 any potential claim?

16 A No, not even close.

17 Q It's getting close, but that's

18 --

19 A It's not even close.

20 Q And it's your understanding --

21 A It's not even close.

22 Q It's not as far off as --

23 MR. RAKHUNOV: I don't think we  
24 need to have a hypothetical legal  
25 discussion here.

1 GILLING

2 THE WITNESS: Yeah, right.

3 Q Why did their law firm believe  
4 that the entity was not formed until May 1,  
5 2021?

6 MR. RAKHUNOV: Objection.

7 A Yeah. Tommy can answer that.  
8 There was -- you know, Rock Fintek was  
9 formed in Delaware in 2019, I believe. And  
10 there is clear documentation for that.

11 Q Meaning it --

12 A It was also -- also reformed in  
13 Miami for other purposes that were  
14 different than this.

15 Q What purposes was it reformed  
16 in Miami for?

17 A I don't -- I don't know, but it  
18 was very logical purposes. And it's not  
19 reformed, it's just addendum. It's -- Rock  
20 Fintek out of Delaware is the entity.

21 Q Okay. And the Rock Fintek out  
22 of Florida has nothing to do with this  
23 case?

24 A I don't -- you can talk to  
25 Tommy Kato about that. There's a --

1 GILLING

2 Q I definitely will. Thank you.

3 This actually predates the  
4 letter, but let's share this. I guess this  
5 will be Exhibit G?

6 MR. RAKHUNOV: I think.

7 MR. FRISCH: We'll have to --  
8 I'll have to get them all together.  
9 They got out of order,  
10 unfortunately.

11 (Whereupon, an off-the-record  
12 discussion was held.)

13 Q Have you ever seen this e-mail  
14 before? I know you are not copied. Have  
15 you seen it?

16 A Not that I recollect.

17 Q Do you -- so do you recall the  
18 events being recounted here? When they  
19 were satisfied and approved the MedCare  
20 gloves, which appears to be referring to  
21 people at the Resource Group, we started to  
22 deliver them around January/February.

23 Where did you get MedCare  
24 gloves in January?

25 A Well, I don't know about



1 GILLING

2 January, but we certainly got them from  
3 Joel Stern in February.

4 Q So you're saying that Mr. Kato  
5 was inaccurate in saying February?

6 A I don't know. I think it was  
7 right around that time period. Is how I  
8 read that.

9 Q It discusses that in later  
10 February/March we were able to secure  
11 prepandemic gloves by Kimberly-Clark, INTCO  
12 and others. These name brands would have  
13 cost us less to purchase, but we did not.  
14 Vince told us not to. He said MedCare  
15 gloves are in all the hospitals and they  
16 are very happy with them and it's more work  
17 to input a new product.

18 Were you present when Vince  
19 told Tommy Kato this?

20 A I was on that call when Vince  
21 said that they were happy with the gloves.  
22 However, you know, Vince was a buyer for --  
23 or was a logistics guy for Resource Group.  
24 And as that turns out, you know, that was  
25 -- I don't know how accurate that statement

1 GILLING

2 was because once the gloves flooded in, it  
3 was very rapid that the complaints came.  
4 They came very quick.

5 Q Well, is it possible that there  
6 was a distinction between the earlier  
7 gloves and the later gloves, primarily the  
8 distinction between the gloves sold by JNS  
9 and the gloves sold by Adorama?

10 A I don't know that. The  
11 majority of the gloves that we bought are  
12 still in the warehouse so that will be  
13 discovered, I think, by going through a  
14 little bit more of an audit of where the  
15 gloves came from. I can't speculate on  
16 that.

17 Q Now, you said that the products  
18 weren't warranted. Is that accurate?

19 A Rock Fintek doesn't warranty  
20 products.

21 Q What about the purchase order  
22 from Ascension -- from the Resource Group;  
23 didn't it include a warranty?

24 A Yeah, they have a warranty  
25 clause in there.

1 GILLING

2 Q So you did have a warranty.

3 A No. We had -- there's  
4 competing documents there. There's our  
5 document for -- or our invoice, and their  
6 document for the PO. Both those documents  
7 are competing documents, so that would have  
8 to be sorted out before the law.

9 Q Right. So battle of the forms  
10 is what we used to call it in law school.

11 A Correct. I don't remember what  
12 happens in those situations, to be honest.  
13 But I think that, you know, there is  
14 language specific to, you know, in our  
15 document and in their document. You're  
16 welcome to read both of them.

17 Q I have. Hence the reason I'm  
18 asking you about it.

19 How were these other companies  
20 all offering MedCare gloves if Adorama and  
21 Kitchen Winners were the exclusive U.S.  
22 dealer of MedCare gloves?

23 A Good question. Ask those guys.

24 Q If I knew who they were, I  
25 would.

1 GILLING

2 A No. Ask -- Kitchen Winners and  
3 Adorama hold themselves out as the only  
4 source, so.

5 Q Well, I'll leave that to your  
6 attorney to ask them that.

7 What kind of due diligence did  
8 you do before you bought the MedCare  
9 gloves? Someone referenced in this e-mail  
10 that there was some due diligence. Can you  
11 give me more of an explanation of what you  
12 --

13 A Yeah. Joel Stern would have  
14 sent Mrs. Li a document. And that document  
15 isn't just testing reports which you  
16 alluded to earlier. It would have been a  
17 document about, you know, the shiny,  
18 glossy, this is MedCare, this is who we  
19 are, this is what we do, here is how we  
20 make gloves; you know, several pages about  
21 conformity, the gloves they make, and how  
22 they conform to different standards.

23 And then, you know, sometimes  
24 in there is -- is a testing report on one  
25 lot of gloves that they'll include in those

1 GILLING

2 type of sales documents. Very typical for  
3 all these gloves, any type of PPE; masks,  
4 gloves, gowns, you know, they'll all have  
5 some sort of, you know, this is what the  
6 product is.

7 So that would have been sent.  
8 Joel would have sent that to Mrs. Li or  
9 Joel would have sent that to us, you know,  
10 however we got that document from Joel or  
11 Mrs. Li or a sourcing group, whoever sent  
12 it. We sent it to Ascension for them to  
13 review and approve. And that's how they  
14 got approved is based on, you know, the  
15 documentation.

16 There have been several  
17 different forms of this documentation.  
18 We've seen it from Kitchen Winners sending  
19 us redacted documents, shortened documents.  
20 But that's how that happens.

21 Q Now, in terms of physical  
22 samples, did you receive any physical  
23 samples? Mr. Kato alluded to samples.

24 A I don't remember. I don't --  
25 you know, that would be a good question for

1 GILLING

2 Mrs. Li. We -- we certainly would have  
3 requested them, and Mrs. Li lived was --  
4 you know, lived in New Jersey or New York  
5 and was close to there. My recollection is  
6 she sent me samples at different times and  
7 MedCare. I don't know that for sure. But  
8 we would have requested samples.

9 Q Were those samples provided to  
10 the Resource Group?

11 A I don't recall.

12 Q When you said you were  
13 prohibited from bidding on Resource Group's  
14 future business, what did you mean by that?  
15 Did they tell you don't bother because  
16 we're not going to give it to you?

17 A We -- we gave them several  
18 different options to try and cure this  
19 problem; by selling them test kits, by  
20 selling them different things to say okay,  
21 we'll sell these and we'll take revenue  
22 from our company and replace gloves. Like,  
23 we were giving them remedies to fix the  
24 bomb that went off with the relationship  
25 that we built.

1 GILLING

2 And so it was -- we were moving  
3 strong on gloves until, you know, we were  
4 in a position to make a bigger play in the  
5 glove market with them, and -- and the way  
6 they signed off deals is they sell them on  
7 a three- and five-year, depending on the  
8 contract, revolving deal, so it would have  
9 been a -- we would have gone for a  
10 five-year contract with them. And, you  
11 know, that's what we were coming for was in  
12 that space.

13 The doors were open for us to,  
14 you know, test kits were a big deal, and we  
15 had a line, a direct source on test kits.  
16 But we had presented to them several  
17 different options to help remediate our  
18 problem on that.

19 Q And they didn't accept any of  
20 those offers?

21 A Correct. Well, because we  
22 torched the bridge with them. We gave them  
23 \$37 million worth of gloves that were not  
24 right. They were boxed wrong and breaking  
25 on people's hand and unusable. Hence the

1 GILLING

2 letter from Winn regarding their position  
3 with an option to sue us.

4 Q But they haven't sued you,  
5 correct? And you haven't paid them any  
6 money back?

7 MR. RAKHUNOV: Objection.

8 Q So you could have bid, and you  
9 just didn't; isn't that correct?

10 A No. We weren't --

11 MR. RAKHUNOV: Objection.

12 A We weren't going to do any  
13 business with them.

14 We tried -- we tried to do more  
15 business with them. They were very frank  
16 about it. Their board was not going to  
17 allow it.

18 Q Is there any of those -- any  
19 communication on that in writing?

20 A No. Just discussions with  
21 Dewayne and Scott and Vince. It might be  
22 out there in writing too. I don't -- I'm  
23 not sure, but -- you know, Tommy would know  
24 more about it.

25 Q And there was no commitment



1 GILLING

2 from Ascension to buy -- to buy anything  
3 from you, correct?

4 MR. RAKHUNOV: Objection.

5 A I don't -- I don't know that  
6 either. There was a commitment the entire  
7 time for us because we -- we were  
8 delivering. So we had established an  
9 incredible -- they were very appreciative  
10 of us during the pandemic.

11 Q Well, isn't that the real  
12 reason why they were not going to buy from  
13 you anymore; because the pandemic ended and  
14 they didn't need you?

15 A No, not at all. Not true.

16 Q Can't they buy direct from the  
17 manufacturer now?

18 MR. RAKHUNOV: Objection.

19 A You can ask them about that,  
20 but it's -- we were in a terrific position  
21 for long-term business.

22 Q I'm going to go back to what  
23 Alex had labeled I think Plaintiff's 1, the  
24 complaint, the third-party complaint,  
25 amended. Actually, let me make it bigger

1 GILLING

2 for you so I can get it.

3 All right. So I have some  
4 questions about your allegations or Rock  
5 Fintek's allegations against Mr. Stern and  
6 JNS. Did Mr. Stern ever personally speak  
7 to you and tell you that the gloves had a  
8 510-K certification?

9 A Yes.

10 Q 510 certification, 510-K  
11 certification is really just based on the  
12 manufacturer writing a letter to the FDA;  
13 is it not?

14 A Well, it's writing a letter and  
15 then it goes through an approval process,  
16 which is fairly difficult to get. There is  
17 a -- when they do it, there is a working  
18 letter that gives them a, kind of a 510-K  
19 preliminary number. To get the actual  
20 certification is more difficult.

21 Q Did he ever personally  
22 represent to you -- not through an  
23 intermediary -- did he ever personally tell  
24 you that it met ASTM-D6319 standards?

25 A Yes.

1 GILLING

2 Q How did he make that  
3 representation to you?

4 A Simply by this was the  
5 standards we need to buy for the hospitals.  
6 We have to buy an ASTM-D6319 examination  
7 glove.

8 Q Why wasn't that in your  
9 purchase orders? Why are those words,  
10 ASTM-D6319, not in --

11 A Because the other reference is  
12 medical examination gloves. It's the same  
13 reference.

14 It's like calling tissues  
15 Kleenex. It's the same thing.

16 Q Do you recall when these  
17 representations were made?

18 A All -- all along. I --  
19 unfortunately, I talked to Joel more than I  
20 wanted to.

21 Q He is a nice guy. I talk to  
22 him all the time.

23 A Joel is a nice guy. I agree.  
24 He is a nice man. He's just a guy I don't  
25 want to do business with.

1 GILLING

2 Q Did you ever tell Mr. Stern you  
3 were prohibited from inspecting the goods?  
4 I know we went -- you went through this ad  
5 infinitum with Alex, but --

6 A Hold on one second.

7 (Whereupon, an off-the-record  
8 discussion was held.)

9 Q Did you ever let Mr. Stern know  
10 that you were prohibited from inspecting  
11 the shipments?

12 A In the warehouse? Like at  
13 MedLine? Is that what you're asking?

14 Q Sure.

15 A No, because I didn't have any  
16 reason to inspect at that time. Like they  
17 -- it wasn't until later that all this was  
18 discovered.

19 Q You also sent Ms. Li to inspect  
20 them, did you not? So the gloves had been  
21 inspected by you.

22 A No. It's not -- Ms. Li went  
23 and met over at Joel Stern's office or  
24 whatever and provided that video.

25 Q And when they got on your

1 GILLING

2 trucks, couldn't you have had the driver  
3 pull the truck over and meet the truck and  
4 count the boxes on the truck?

5 A No.

6 Q No?

7 A No. To reiterate, all trucks  
8 were sealed. You couldn't go into the  
9 warehouse. They were sealed, and if that  
10 seal was broken along the way, that means  
11 it was tampered with. So you couldn't do  
12 that.

13 Q You --

14 A It was maniacal at that time.  
15 You -- everything was sealed with -- it  
16 arrived sealed and it was cut by MedLine.  
17 They were delivered to MedLine. It arrived  
18 sealed and MedLine would have cut that and  
19 unloaded that.

20 Q Didn't you -- when you said  
21 that you had chemically tested the gloves,  
22 you've seen reports for three tests on the  
23 chemical testing. Do you have more  
24 chemical tests?

25 A Not that I'm aware of.

1 GILLING

2 Q Okay.

3 A I don't -- you know -- we sent  
4 different lot numbers and, you know,  
5 MedCare held these things out, Anna and  
6 Yossi, as being, you know, dual gloves for  
7 examination and chemotherapy. MedCare,  
8 Anna and Yossi at MedCare, later, after the  
9 fact, after all the problems, they held  
10 these gloves out as being chemotherapy,  
11 good for chemotherapy and examination. You  
12 could basically pour gasoline on them.  
13 And, you know, that's fine.

14 The problem isn't that's --  
15 that's not what these gloves were purchased  
16 for. They were purchased for examination  
17 gloves, which an examination glove needs to  
18 go on your hand very swiftly in a hospital  
19 setting where there's emergencies going on.  
20 And these gloves tear and puncture and rip.  
21 And that was the problem with it.

22 If you put one of these gloves  
23 on very gingerly and got it on your hand,  
24 you could pour gasoline on it. But that  
25 was just more evidence of the compound that

1 GILLING

2 they were made of was, you know, not proper  
3 for an examination glove. It was -- the  
4 biggest problem with these gloves is an  
5 elasticity and durability issue.

6 Q Right. Now, you have been  
7 alleging fraud. But in reality, you don't  
8 have any idea whether or not the fraud that  
9 you're alleging happened on the end of the  
10 manufacturer or if it was done by the  
11 defendants in this lawsuit, correct?

12 A I will give you, you know,  
13 which I have repeated several times. Anna  
14 explained to us that Kitchen  
15 Winners/Adorama wanted to buy the cheaper,  
16 less expensive protection gloves, not the  
17 examination gloves, which they bought in  
18 droves and put on our truck and sold them  
19 to us as if they were examination gloves.  
20 So there was different price points for  
21 gloves they're buying.

22 Secondly, alluding to fraud was  
23 the stickered boxes that Joel Stern sold to  
24 us, which were 100 percent fraudulent with  
25 the cheaper glove, protection glove, that

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GILLING

did not meet any of the standards that we were buying and we said we would not buy that were put on the trucks and sold to us, unbeknownst to us. And it wasn't until I went out and did inspections in July of '21, July, August, that I was mortified to find those sitting in the MedLine warehouse with Joel Stern's paperwork all over it.

Q Did you ever ask MedCare about the claim that the protection gloves were the same as the examination gloves?

A MedCare does not have a report for -- that they can give us. We've asked over -- repeatedly for at least a year or more for reports on the protection gloves. They don't have any reports that they can give us. We tried to get that report to go back to our client and say hey, these gloves are fine; however, there isn't reports about protection gloves that exist that they are D-6319, that they are 510-K. There is none of that. They -- they just don't exist.

So, so yeah, that doesn't



1 GILLING

2 exist. They do have some loose reports on  
3 the examination gloves being approved, but  
4 that can be challenged too whether that's  
5 legitimate.

6 Q So you don't -- again, you  
7 spoke to the people at MedCare and they  
8 blamed Adorama, correct?

9 A The people at MedCare are not  
10 forming opinions on anything. They just  
11 told us what they sold and what they were  
12 buying these things for and speculated why  
13 they would have done what they would have  
14 done. They were just buying them cheaper  
15 and jamming them on our truck for fraud  
16 purposes. They could make more of a buck  
17 by giving us some janitor gloves. That's  
18 what --

19 Q Isn't it possible that MedCare  
20 stuck protection gloves in boxes and sent  
21 them to Adorama, who -- or to my client and  
22 said -- I mean, it's just as possible that  
23 MedCare is the -- is the party that sold  
24 cheaper gloves as more expensive gloves; is  
25 it not?

1 GILLING

2 A I didn't buy -- I didn't buy  
3 these from MedCare. I bought them from  
4 your client. So --

5 Q But you're alleging my client  
6 defrauded you.

7 A Correct.

8 Q And I'm asking you; maybe my  
9 client was defrauded by MedCare. You don't  
10 know that, do you?

11 A Okay. So I will reiterate the  
12 fraud again. Your client stuffed stickered  
13 boxes on trucks and delivered them against  
14 our direction. We didn't want -- and it  
15 was done from a greed standpoint to make  
16 margin for their own pockets, creating a  
17 fraud, creating me to lose a client,  
18 creating all sorts of problems for me.

19 So I will reiterate for you  
20 saying for the umpteenth time there's no  
21 fraud; there's 100 percent fraud in this  
22 case. That's just one instance of fraud.

23 The other is the protection  
24 gloves that we should have never got. And  
25 they were buying it at two different price

1 GILLING

2 points. So to say that isn't it MedCare  
3 that alluded that they didn't get what they  
4 were buying? They were buying protection  
5 gloves at a different price point than  
6 examination gloves.

7 So go back to your client and  
8 investigate that, because I hope we can  
9 get, you know, deeper into this in our  
10 lawsuit.

11 Q I want to get done today, and  
12 your speeches about my clients are not  
13 especially helpful.

14 MR. RAKHUNOV: Yeah, let's  
15 stick to the questions. We're  
16 almost done.

17 Just quickly, how much longer  
18 do you think you have, Avi? If  
19 it's going to be --

20 MR. FRISCH: Twenty minutes. I  
21 want to get done here just as much  
22 as you. I like going home also.

23 Q So the -- did you get any  
24 paperwork from MedCare that substantiated  
25 the claim that Adorama had purchased

1 GILLING

2 protection gloves from them?

3 A Yes.

4 Q You have such paperwork?

5 A Yes.

6 Q Has that been produced to us?

7 A I assume so.

8 MR. FRISCH: I have not seen  
9 that so I'm going to call for its  
10 production. But maybe I missed it.

11 Phil, if you know which Bates  
12 number it is, that's fine too.

13 THE WITNESS: It's on the  
14 testing reports that have Kitchen  
15 Winners across to top of the  
16 testing report.

17 MR. RAKHUNOV: Look at the SGS.

18 THE WITNESS: Well, it's SGS  
19 and it's ATS. It's ATS and SGS's  
20 file.

21 Q Okay, well, what I'm looking  
22 for, right, is they say they sold -- that  
23 they were paid for protection gloves as  
24 opposed to examination gloves. So I'm  
25 looking for documentation from them that

1 GILLING  
2 would demonstrate that they only received  
3 payment for protection gloves and that they  
4 did not receive payment for examination  
5 gloves. I'm wondering if you have that. I  
6 mean, I understand that there's a testing  
7 report saying --

8 A No. That's a good point. You  
9 should ask that.

10 MR. RAKHUNOV: That is  
11 something that we requested in  
12 discovery I'm not sure that we've  
13 received, so.

14 MR. FRISCH: I certainly don't  
15 have it. So I know that.

16 MR. RAKHUNOV: Your client  
17 would.

18 MR. FRISCH: He wouldn't.

19 MR. RAKHUNOV: Let's move on.

20 Q Let's move on. Like I said,  
21 I'm just trying to find out if it's  
22 something that they received from MedCare  
23 directly. Because I would expect that such  
24 proof would exist if there's -- if MedCare  
25 is saying that they sold protection gloves

1 GILLING

2 and did not sell examination gloves, they  
3 should have some proof of that.

4 A Okay, so the proof is they gave  
5 us the testing reports for all the gloves  
6 that they bought that they delivered to us  
7 with the lot numbers identifying exactly  
8 what we got that was going to us.

9 As far as what they paid for,  
10 invoices and all that, they didn't give us  
11 that. They gave the testing reports that  
12 were provided with Kitchen Winners on those  
13 testing reports with the lot numbers that  
14 we received and we matched up to the lot  
15 numbers that we have.

16 Q Now, can you -- we looked  
17 together at the MedLine spreadsheet. Could  
18 you identify precisely which shipments came  
19 from Stern and precisely which shipments  
20 came from Adorama?

21 A We would be able to -- I don't  
22 know if that document exists in the form  
23 that you have it, but we can identify it  
24 based on payments to Stern and deliveries  
25 made at that time. And then we could -- it

1 GILLING

2 could be tracked.

3 Q Okay.

4 A I don't know if it exists, but  
5 it could be tracked.

6 Q Okay.

7 A MedLine -- you know, that would  
8 be a MedLine discovery of, you know, trucks  
9 that came in when we purchased -- when we  
10 actually purchased and wired money to Joel  
11 Stern.

12 Q Now, in your complaint, you  
13 state that Stern and JNS were agents of  
14 Adorama and Kitchen Winners. In what sense  
15 were they agents?

16 MR. RAKHUNOV: Objection.

17 A Well, they were working with --  
18 they were providing the gloves.

19 Q Well, in that sense, you bought  
20 the gloves from them and sold them to  
21 Ascension, weren't you -- you were an agent  
22 of Adorama and Kitchen Winners by that  
23 basis; were you not?

24 MR. RAKHUNOV: Objection.

25 Q Literally the same

1 GILLING

2 relationship?

3 A I don't -- I don't -- I can't  
4 even comment on that. It's a confusing  
5 topic you just talked about.

6 Q It's alleged in your pleading,  
7 not -- not mine.

8 MR. RAKHUNOV: It's alleged in  
9 Rock Fintek's pleading, and Mr.  
10 Gilling is not a lawyer.

11 Q Okay. Did Mr. Stern ever tell  
12 you he was selling on behalf of Adorama?

13 A I don't know if he used those  
14 words.

15 Q It was your understanding he  
16 was selling for the account of JNS, not for  
17 Adorama's account; isn't that correct?

18 A I had a lot of conversations  
19 with Joel Stern about he was kind of  
20 beholden to Hershey Weiner and how they  
21 were getting these gloves. And so he was  
22 trying to make his margin from getting them  
23 from Adorama and Kitchen Winners to sell to  
24 us.

25 He was -- he was trying to



1 GILLING

2 compete against them at some points, but  
3 other times he was working with them, so --  
4 he was -- he was greed-driven to make money  
5 any way he could in working and being held  
6 by Hershey Weiner to get the gloves.

7 Q He was trying to make money. I  
8 don't know that that's greed. You were  
9 also trying to make money. Everybody is  
10 trying to make money. I'm sitting here  
11 today trying to make money. It's not  
12 necessarily greed.

13 Okay. Did Joel Stern, first,  
14 did he ever tell you that he had a  
15 connection to a new nitrile glove  
16 manufacturer at any time?

17 A We saw it in a text chain I  
18 thought.

19 Q That he had a relationship?

20 A I don't know.

21 Q Okay.

22 A I don't recollect him telling  
23 that, but it could be true.

24 Q Again, in paragraph 29 you say  
25 expressly explained orally and in writing

1 GILLING

2 to Stern.

3 A I don't -- I don't say that,  
4 but go ahead.

5 Q I say "you," as in Rock Fintek  
6 here, okay?

7 A Okay. Yeah.

8 Q I'm just trying to get done  
9 here.

10 What writing do you have to  
11 Joel Stern that substantiates what's  
12 written in those paragraphs?

13 A What's in writing is a  
14 contract.

15 Q You didn't have a contract with  
16 Stern; you had a purchase order.

17 A Correct. In writing -- I'm  
18 giving you one answer to this so far. I'm  
19 not done talking.

20 You know, with Stern, there  
21 should be WhatsApp messages, there should  
22 be e-mail messages, and there is certainly  
23 numerous verbal discussions about  
24 purchasing and what we had to -- what we  
25 were purchasing them for. The ASTM D6319

1 GILLING

2 examination gloves.

3 These guys all know what those  
4 are. I mean, we can keep dancing around.  
5 They were in the glove business -- they  
6 weren't in the glove business, they were in  
7 the glove business about the same amount of  
8 time we were, so. You know, all this  
9 expertise thing you're talking about; they  
10 were in the same amount of time. And they  
11 knew exactly what an ASTM-D6319 glove was,  
12 and they knew it was examination glove.  
13 It was discussed numerous times on the  
14 phone. It was standard protocol discussion  
15 for buying gloves. They knew it, we knew  
16 it. What we got was totally different.

17 Q In paragraph 30, you write  
18 Stern, through a broker. What's the  
19 identify of the name of the broker  
20 referenced?

21 A I would -- I would assume  
22 that's Mrs. Li.

23 Q Do you know if it was given by  
24 Stern directly to Mrs. Li or was there  
25 another person in the mix there?

1 GILLING

2 A Well, if Stern had somebody  
3 else, like, I don't know, a sourcing group  
4 or -- or Hershey or Mendel or, I'm not  
5 sure. I'm not sure how Stern was  
6 operating. But it came through those  
7 channels for us to give to our client.

8 Q And the MedCare examination  
9 gloves sold to you around February 2nd, how  
10 do you know that those gloves in particular  
11 did not match the paperwork that you were  
12 given?

13 A Well, I don't -- I know the  
14 gloves that we got in hindsight did not  
15 check out, based on our testing, based on  
16 the hospital putting them on, based on  
17 stickers, based on what they read on the  
18 package. That was all found out later.  
19 And then I am still-- which will come out  
20 in this lawsuit, based on testing, will  
21 likely find out there is problems with all  
22 of them.

23 I'm just speculating.

24 Q Okay. Please don't do that.  
25 Just tell me what you know.

1 GILLING

2 Paragraph 35 I think is the  
3 next one. The express representation that  
4 you allege in -- that Rock Fintek alleges  
5 in paragraph 35, do you know where that was  
6 made?

7 A Yeah. That would have been --  
8 that would have fallen in line with, you  
9 know, us in our demands for what we were  
10 buying being ASTM-D6319. It's pretty  
11 standard wording of it.

12 Q You say Adorama, Kitchen  
13 Winners, and Stern did not include as a  
14 specification in their pertinent contracts.  
15 Didn't -- you didn't have a formal contract  
16 with Stern, right? You issued a purchase  
17 order that he accepted?

18 MR. RAKHUNOV: Objection.

19 A Yeah. I don't -- I think a  
20 contract can be, you know, anything. It  
21 can be verbal and it can be invoiced and  
22 pick up the gloves and pay for them. I  
23 mean, I don't know.

24 If you tell me the difference  
25 in that transaction, I guess I could --

1 GILLING

2 Q But there wasn't a formal  
3 written negotiated contract, correct, with  
4 Stern?

5 MR. RAKHUNOV: Objection.

6 A Well, yeah, there was a written  
7 -- there was a verbal contract, an  
8 agreement that was consummated by either a  
9 PO and an invoice. That's how it would  
10 have been done.

11 Q If it was consummated with a PO  
12 and an invoice, shouldn't your PO have  
13 included the specification you wanted?

14 A I'm not sure if we were giving  
15 them POs at that time or not.

16 Q I'm just going based on what  
17 you just said, right? Meaning this  
18 paragraph of the complaint is alleging that  
19 there is a piece of paper prepared by Mr.  
20 Stern that did not -- that, essentially  
21 fraudulently, left out a specification you  
22 wanted. And I don't -- and I'm trying to  
23 figure out what document that's referring  
24 to.

25 A Let me read it. Are you

1 GILLING

2 talking about 37?

3 Q Specifically the last sentence.

4 A 37.

5 Yes. This is accurate. That  
6 was provided by both Stern and Kitchen  
7 Winners and Adorama.

8 Q What was provided?

9 A That documentation with -- with  
10 Zhonghong Pulin Medical Products, that they  
11 were providing ASTM-D6319-specified gloves  
12 with the 510-K approval there.

13 Q It's the last clause of the  
14 contract that I'm asking about, but which  
15 Adorama, Kitchen Winners, and Stern did not  
16 include as a specification in their  
17 pertinent contracts.

18 I'm trying to find the  
19 pertinent contract that's being alleged  
20 here.

21 A Okay, so what's your question?

22 Q What contract are we talking  
23 about? Where did Stern not include  
24 something in a contract that you -- that  
25 you felt was needed?

1 GILLING

2 MR. RAKHUNOV: Objection. I'm  
3 not sure about that last part.

4 A I don't know. You have to  
5 narrow that question.

6 Q Let's move on. I'm not going  
7 to get an answer, clearly.

8 Didn't you have an attorney  
9 working with you when you were dealing with  
10 Mr. Stern in February 2021?

11 A Yes.

12 Q And that attorney was assisting  
13 you in the transaction? Without telling me  
14 what was discussed with him.

15 A Yes.

16 Q On what basis do you say Stern  
17 and JNS had superior and special knowledge  
18 about the source and nature of the gloves  
19 and had exclusive access to the principals  
20 and agents of Global Tooling Service? Do  
21 you have any idea where that allegation  
22 comes from?

23 A Is there a question?

24 Q Yes. Where does this come  
25 from?



1 GILLING

2 A What --

3 Q Meaning where did Stern and JNS  
4 have superior and special knowledge of the  
5 source and nature of the glove?

6 A Are you talking about section  
7 41, or number 41?

8 Q Yes.

9 A Yeah. That's accurate. So,  
10 yes.

11 Q Well, what's the factual basis  
12 for it?

13 A The factual basis is they held  
14 themselves out as the exclusive seller of  
15 MedCare gloves. You couldn't get them from  
16 anywhere else but them. They -- in  
17 hindsight, which makes all this writing,  
18 all this in the complaint easier, was the  
19 discussions that we had with Anna and Yossi  
20 after the fact of their relationship.

21 Q But I'm trying to distinguish  
22 Adorama/Kitchen Winners from Stern and JNS.  
23 Stern and JNS were customers of Adorama and  
24 Kitchen Winners, like you testified.

25 MR. RAKHUNOV: Objection.

1 GILLING

2 A I don't know that. I just know  
3 that Stern has told me that. Stern could  
4 be Kitchen Winners for all I know. JNS  
5 could be Kitchen Winners. I don't know.

6 Q That's what I'm asking you.  
7 You know, this being alleged, right, that  
8 he had exclusive access, and you don't have  
9 any basis for that other than -- you don't  
10 seem to have any basis for the assertion  
11 made --

12 A I have -- I have basis to it,  
13 that Stern has told me that he was getting  
14 the gloves from Adorama and Kitchen Winners  
15 and worked with them closely. So I don't  
16 know their corporate structure. It sure  
17 looked the same along the way.

18 Q 42 I think we've beaten to  
19 death.

20 Why didn't Ascension inspect  
21 the gloves on a timely basis?

22 A I don't -- you'd have to ask  
23 them.

24 Q I plan on it. Just wondering  
25 if you know.

1 GILLING

2 In paragraph 44, it says  
3 between on or about April 16th through May  
4 2nd, Rock Fintek purchased at least 2.6  
5 million worth of gloves through Stern and  
6 JNS. Didn't the transactions with Stern  
7 and JNS begin about two months before that?

8 A Yeah. I think maybe they  
9 started in February. I don't know. So  
10 maybe we bought more. I don't know.

11 Q So is this -- is the allegation  
12 about all gloves sold by Stern or only  
13 gloves sold by Stern from April 16 onward?

14 A I don't know that. I would  
15 defer to my attorney on that.

16 Q In regard to paragraph 46, do  
17 you have any evidence showing that what  
18 Stern told you was untrue?

19 A Yeah, this -- this is true.  
20 Yeah. He said this.

21 Q Well, it says it. I'm saying  
22 how do you -- but it alleges that this  
23 statement was false. How do you know it  
24 was false?

25 A Well, because I talked to --

1 GILLING

2 you know, Anna and Yossi have no  
3 documentation for protection gloves.  
4 There's -- they're a janitor grade glove.  
5 They're -- that's why there's no  
6 documentation for examination and D6319 and  
7 any of those things because they were  
8 created to sell for those purposes.

9 So I would just take my  
10 knowledge from talking to the manufacturer  
11 and what was sold to us including just the  
12 absurd that they put an examination sticker  
13 over a protection box and call it an  
14 examination glove.

15 You know, this is -- and by the  
16 way, I opened that box and put a glove on,  
17 and it snaps immediately on your hand and  
18 breaks. So it's -- it's just all part of  
19 the fraud that was -- this is all part of  
20 the fraud that was put on Rock Fintek.

21 Q So the April 16 transaction  
22 where he sold you the gloves from the L.A.  
23 inventory, are those the ones that you  
24 believe came with the protection gloves  
25 with the sticker?

1 GILLING

2 A I'm not -- I'm not sure. I  
3 don't know. You would have to ask Joel  
4 Stern.

5 Q Okay.

6 A He was very knowledgeable about  
7 them, and we weren't taking them.

8 Q But you have no basis to say  
9 that he was the one who had the stickers  
10 placed on the boxes?

11 A I don't know that.

12 Q And you don't know -- it's  
13 possible the manufacturer misprinted the  
14 boxes and then put stickers on to correct  
15 the boxes instead of reprinting new boxes?

16 A I have no -- I have no  
17 knowledge of that.

18 Q Now, if he was just able to put  
19 the items on the truck and rip you off, as  
20 you claim, then why in paragraph 55 would  
21 he be calling you up to try to sell you the  
22 protection gloves with the stickers on  
23 them? Apparently, he is able to just lie  
24 to you. So isn't this internally  
25 inconsistent with your theory?

1 GILLING

2 MR. RAKHUNOV: Objection.

3 A Is there a question there?

4 Q Yes. Isn't -- aren't your  
5 allegations internally inconsistent?

6 A What's your question there?  
7 You wanted me to read number 55?

8 Q Read number 55.

9 A Okay.

10 Yeah. That's very accurate.

11 Q If he had already put fake  
12 gloves, you know, protection gloves on you  
13 a week earlier without you knowing, why  
14 would he come and try to get you to take  
15 them voluntarily? He could just keep  
16 giving them to you, and you wouldn't know  
17 the difference.

18 A That's not -- you're alluding  
19 that Stern is an upstanding guy. Like,  
20 that's -- that's why we're suing him is  
21 because he is not. So this falls right in  
22 line with chaos and, you know, being --

23 MR. RAKHUNOV: Objection, by  
24 the way, to the extent, you know,  
25 you're asking him to guess about

1 GILLING

2 what Mr. Stern was thinking. This

3 is just a fact of what happened.

4 What he was thinking is -- I'll ask

5 Mr. Stern about that.

6 Q The allegation of fraud is  
7 based on what you guys are claiming, even  
8 though you have no evidence of it.

9 A Oh, we have tremendous evidence  
10 of him committing fraud against us. That's  
11 a --

12 Q You have yet to come up with a  
13 piece of evidence of it. And I keep asking  
14 you where is the evidence?

15 A Well --

16 Q I haven't seen it.

17 A I've already told you, you  
18 don't have to see it. Wait until you see  
19 the stickered boxes and what was done. You  
20 will see it.

21 MR. RAKHUNOV: He's seen the  
22 stickered boxes.

23 Q I've seen pictures. I'm not  
24 convinced that that's fraud, and I'm not --

25 A It's fraud.

1 GILLING

2 Q But in any event --

3 A A court will decide that.

4 Q I agree.

5 How do you know that Stern  
6 complained to Rock Fintek -- to Adorama and  
7 Weiner about Rock Fintek as alleged in  
8 paragraph 90?

9 A What's your question?

10 Q How do you know what's alleged  
11 here? How do you know about a conversation  
12 between Stern and Adorama and Weiner?

13 A Stern would have cried a river  
14 that Adorama and Kitchen Winners are the  
15 ones that are causing problems.

16 Q So now you can make assumptions  
17 about what Stern would have said but five  
18 seconds ago you told me I can't make  
19 assumptions; that's not what Stern was  
20 thinking. Is that your testimony?

21 A No, because we had  
22 conversations with him about it. I can't  
23 --

24 Q Okay.

25 A -- say that's something I



1 GILLING

2 didn't have a conversation with him about.

3 Q Well, you said he ignored your  
4 written communications and complained to  
5 Rock Fintek -- complained to Adorama and  
6 Weiner. How do you know that?

7 A Yeah. Because he would have --  
8 he would have -- he would have done it  
9 verbally on the phone. Ignored the written  
10 communications and started complaining  
11 about it.

12 Q So who told you --

13 A It says it right there. It's  
14 exactly how it's said in --

15 Q Who told you that this  
16 occurred?

17 A Stern.

18 Q When?

19 A When we talked to him about the  
20 problem with -- in the discovery of fake  
21 gloves. There is still communication with  
22 Stern after the fact. We were being  
23 somewhat nice to Stern in hoping he would  
24 give us more information on Adorama and  
25 Kitchen Winners. Which he complained

1 GILLING

2 verbally. Stern would reach out to me and  
3 give me, you know, Jewish, like, little  
4 memes and stuff, I don't know. I don't  
5 know.

6 Q Was he complaining about you  
7 because you guys didn't pay him on time?

8 A Stern never complained about  
9 us. To me. It's more whining. He whined  
10 a little, bit but he didn't complain.

11 Q You guys held back his money  
12 for months, didn't you?

13 A I don't -- I don't recall that.

14 I wish we would have held it  
15 back in its entirety, to be honest with  
16 you, because we were -- because of the  
17 fraud.

18 MR. RAKHUNOV: That wasn't a  
19 question.

20 Q Do you have a list of the  
21 factories that were printed on the glove  
22 boxes as the manufacturers?

23 A I don't know about a list but,  
24 you know, in talking with Anna, I -- my  
25 recollection is there's three different

1 GILLING

2 manufacturers that they were using.

3 Q Did you ever inform Mr. Stern  
4 of Ascension's existence?

5 A No, but he was always trying to  
6 figure it out because he was in hopes to  
7 sell direct to them. He would always ask  
8 questions about them. And then he came  
9 back one day and said, oh, I know you're  
10 selling to Ascension hospitals. Because it  
11 showed up on, you know, some sort of  
12 trucking something along the way. No. It  
13 went to MedLine. It went to MedLine and  
14 then he was like, he was always trying to  
15 figure it out.

16 Q Why wasn't Arik Maimon paid?

17 MR. RAKHUNOV: Objection.

18 A Yeah. I don't know.

19 Q Whose decision was it not to  
20 pay him?

21 A You're going to have to talk to  
22 him because I know he made money. Along  
23 the way he made money from someone. It  
24 wasn't us.

25 Q You guys had an agreement with

1 GILLING

2 him to pay him, didn't you?

3 A That agreement showed up  
4 earlier in this case -- or in this Zoom.  
5 That agreement showed up earlier in this  
6 testimony with the other attorney.

7 Q Yeah. Did you ever get  
8 anything from MedCare in writing that shows  
9 the distinction between protection and  
10 examination gloves?

11 A No.

12 I'll reiterate. I've said it  
13 five times. There is nothing that exists  
14 on protection gloves. We've requested it  
15 numerous times. They said they would send  
16 it. They never sent it. This has gone on  
17 for -- that part went on for maybe a year.  
18 It doesn't exist.

19 Q Did MedCare confirm that  
20 Adorama and Kitchen Winners was the  
21 exclusive dealer of their gloves or did  
22 they say that was false?

23 A They confirmed that. However,  
24 I believe they also stated they -- they  
25 were selling to other channels too, but I

1 GILLING

2 don't have that confirmed. They confirmed  
3 to me that initially that Adorama and  
4 Kitchen Winners were the exclusive people.

5 Q Are you expecting to be paid  
6 for this deal?

7 A I -- I don't know. You know, I  
8 don't -- my time is very valuable, and I'm  
9 not on this call for -- for free, so yes, I  
10 expect to be paid.

11 Q So Rock Fintek is paying you to  
12 appear today?

13 A No, they're not.

14 MR. RAKHUNOV: Objection.

15 Q So you're going to get paid if  
16 you're successful in this lawsuit.

17 MR. RAKHUNOV: Objection.

18 A I sure hope so.

19 MR. FRISCH: That's all I have.  
20 I don't know if Alex has any  
21 follow-up questions he wants to get  
22 in before we finish.

23 MR. SPERBER: Give me -- give  
24 me two minutes.

25 MR. FRISCH: Okay.

1 GILLING

2 (Whereupon, a short recess was  
3 taken.)

4 MR. SPERBER: I have one  
5 follow-up question.

6 EXAMINATION BY

7 MR. SPERBER:

8 Q Mr. Gilling, did MedCare tell  
9 you that Adorama was also an exclusive  
10 dealer of their products, or just Kitchen  
11 Winners?

12 A I don't -- I don't recall. I  
13 think they -- you know, I think Kitchen  
14 Winners and Adorama were one and the same,  
15 you know. We discussed -- you know, we  
16 didn't get introduced to MedCare or track  
17 them down until the problem had arisen, so,  
18 you know, we explained to them what our  
19 contract was with Kitchen Winners and  
20 Adorama. And that's when they verified  
21 that they were the, you know, distributor  
22 for the United States.

23 MR. SPERBER: Okay. I have no  
24 other questions.

25 MR. RAKHUNOV: You know what; I

1 GILLING

2 typically wouldn't do this, but I  
3 do have one question for Mr.  
4 Gilling to clarify something.

5 Avi, do you mind taking down  
6 your screen share so I could --

7 MR. FRISCH: Of course.

8 (Whereupon, an off-the-record  
9 discussion was held.)

10 EXAMINATION BY

11 MR. RAKHUNOV:

12 Q So what I've put on the screen  
13 is, I guess we can mark this as whatever  
14 the last exhibit would be. And this is a  
15 chat that we produced that is, the title of  
16 it is JNS service, Joel NY gloves. Do you  
17 see at the very bottom there is a chat from  
18 you dated July 20, '21, 6:35 p.m., and you  
19 write: Joel, you going dark on Rock Fintek  
20 and complaining to the Adorama and Hershey,  
21 et cetera, isn't helping anything. Do you  
22 see that?

23 A Yes.

24 (Whereupon, a WhatsApp text was  
25 deemed marked as Defendant's

1 GILLING

2 Exhibit A for identification, as of  
3 this date, by the reporter.)

4 Q Okay. And you learned that Mr.  
5 Stern was complaining about Rock Fintek  
6 from the phone call that you had with  
7 Hershey Weiner and others where Mr. Weiner  
8 threatened you; is that correct?

9 A Yeah. I don't -- I don't know  
10 in the context you're asking that. I mean,  
11 Mr. Weiner threatened to kill me and bury  
12 me in my front yard. That was scary and  
13 unfortunate and made me fear these --  
14 they're scary people once that starts, but  
15 -- okay, so what's your question?

16 Q So my question is you didn't  
17 learn from Mr. Stern that he was  
18 complaining to Hershey. You learned from  
19 Hershey that Mr. Stern was complaining to  
20 him?

21 A Correct.

22 Q Okay. It was a little  
23 confusing the way it came across earlier,  
24 and I just want to make the record clear.

25 A Yeah. That's correct.



1 GILLING

2 MR. RAKHUNOV: That's all I  
3 had.

4 MR. SPERBER: I just want to  
5 follow up on the line of  
6 questioning from Phil.

7 EXAMINATION BY

8 MR. SPERBER:

9 Q Mr. Gilling, you mentioned a  
10 phone call during which Mr. Weiner  
11 threatened you?

12 A Yes.

13 Q Who was on that phone call?

14 A Arik Maimon, Hershey Weiner,  
15 and Thomas Kato. I believe Thomas Kato was  
16 on there. You've got to ask him.

17 Q Do you recall when that phone  
18 call was?

19 A It was in the summer -- well, I  
20 don't know if it was quite summer. But I  
21 was -- I know exactly where I was. I was  
22 on a golf course on the sixth hole in the  
23 fairway when it happened. But I don't know  
24 the exact date. And Phillip might have it.

25 MR. SPERBER: Okay. That was

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GILLING

my only question.

(Whereupon, at 5:21 p.m., the  
examination of this witness was  
concluded.)

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D E C L A R A T I O N

I hereby certify that having been  
first duly sworn to testify to the truth, I  
gave the above testimony.

I FURTHER CERTIFY that the foregoing  
transcript is a true and correct transcript  
of the testimony given by me at the time  
and place specified hereinbefore.

---

BRAD GILLING

Subscribed and sworn to before me  
this\_\_\_\_day of\_\_\_\_\_, 2023.

---

NOTARY PUBLIC

## GILLING

## E X H I B I T S

## PLAINTIFF EXHIBITS

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Ex 4	Sales and Purchase Agreement	143

## THIRD-PARTY DEFENDANT EXHIBITS

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## GILLING

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## INFORMATION AND / OR DOCUMENTS REQUESTED

INFORMATION AND/OR DOCUMENTS	PAGE
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Written request to MedLine	92
Financial records	172
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## C E R T I F I C A T E

STATE OF NEW YORK )

: SS.:

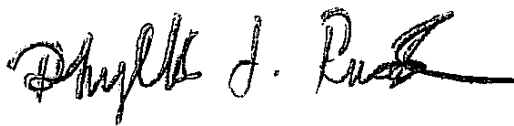
COUNTY OF KINGS )

I, PHYLLIS F. RUSSEK, a Notary Public  
for and within the State of New York, do  
hereby certify:

That the witness whose examination is  
hereinbefore set forth was duly sworn and  
that such examination is a true record of  
the testimony given by that witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or by marriage and that I  
am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 4th day of October, 2023.



PHYLLIS F. RUSSEK

Errata Sheet

NAME OF CASE: KITCHEN WINNERS NY INC. -against- ROCK FINTEK LLC

DATE OF DEPOSITION: 08/29/2023

NAME OF WITNESS: BRAD GILLING

Reason Codes:

1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_

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